



City Council Chambers  
3300 Capitol Avenue  
Fremont, California

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### City Council

Bob Wasserman, Mayor  
Suzanne Lee Chan, Vice Mayor  
Anu Natarajan  
Bill Harrison  
Dominic Dutra

### City Staff

Fred Diaz, City Manager  
Harvey E. Levine, City Attorney  
Mark Danaj, Assistant City Manager  
  
Dawn G. Abrahamson, City Clerk  
Harriet Commons, Finance Director  
Marilyn Crane, Information Technology Svcs. Dir.  
Annabell Holland, Community Services Director  
Norm Hughes, City Engineer  
Bruce Martin, Fire Chief  
Jim Pierson, Public Works Director  
Jeff Schwob, Interim Community Dev. Director  
Suzanne Shenfil, Human Services Director  
Craig Steckler, Chief of Police  
Brian Stott, Human Resources Director  
Lori Taylor, Economic Development Director  
Elisa Tierney, Redevelopment Director

## City Council Agenda and Report [Redevelopment Agency of Fremont]

### General Order of Business

1. Preliminary
  - Call to Order
  - Salute to the Flag
  - Roll Call
2. Consent Calendar
3. Ceremonial Items
4. Public Communications
5. Scheduled Items
  - Public Hearings
  - Appeals
  - Reports from Commissions, Boards and Committees
6. Report from City Attorney
7. Other Business
8. Council Communications
9. Adjournment

### Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

### Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.



## **Addressing the Council**

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

## **Oral Communications**

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. **Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak.** Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

**To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.**

**The City Council Agendas may be accessed by computer at the following Worldwide Web Address: [www.fremont.gov](http://www.fremont.gov)**

## **Information**

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website ([www.Fremont.gov](http://www.Fremont.gov)).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

## **Availability of Public Records**

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk  
City of Fremont  
3300 Capitol Avenue, Bldg. A  
Fremont, California 94538  
Telephone: (510) 284-4060

*Your interest in the conduct of your City's business is appreciated.*

**NOTICE AND AGENDA OF SPECIAL MEETING  
CLOSED SESSION  
CITY OF FREMONT**

**DATE:** Tuesday, May 24, 2011

**TIME:** 5:15 p.m.

**LOCATION:** Fremont Room, 3300 Capitol Avenue, Fremont-

**CALL TO ORDER**

**ROLL CALL**

**PUBLIC COMMENT:**

Any person desiring to speak on an item listed on this Notice, may do so now. The Mayor will limit the length of your presentation and each speaker may only speak once on each item.

- 1) **CONFERENCE WITH LABOR NEGOTIATOR:** The City Council will hold a special meeting which will commence as an open meeting and then adjourn to a closed session as authorized by subdivision (a) of Section 54957.6 of the Government Code for the purpose of reviewing its position for upcoming employee negotiations and for instructing Fred Diaz, City Manager; Mark Danaj, Assistant City Manager; Brian Stott, Human Resources Director and Harvey Levine, City Attorney as the City's negotiators regarding salaries, salary schedules, compensation paid in the form of fringe benefits of its represented and unrepresented employees, and for any other matters within the statutorily provided scope of representation.

The names of the organizations representing employees in question are:

Fremont Association of Management Employees  
Fremont Association of City Employees  
Operating Engineers  
Teamsters Local 856  
Fremont Police Association  
Professional Engineers and Technicians Association

- 2) **CONFERENCE WITH LABOR NEGOTIATOR:** The City Council will hold a special meeting which will commence as an open meeting and then adjourn to a closed session as authorized by subdivision (a) of Section 54957.6 of the Government Code for the purpose of reviewing its position for upcoming employee negotiations and for instructing Fred Diaz, City Manager; Mark Danaj, Assistant City Manager; Brian Stott, Human Resources Director and

Harvey Levine, City Attorney as the City's negotiators regarding salaries, salary schedules, compensation paid in the form of fringe benefits of its represented and unrepresented employees, and for any other matters within the statutorily provided scope of representation.

The names of the organizations representing employees in question are:

Fremont Fire Fighters  
Fremont Fire Fighters Battalion Chiefs

**3) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

This Closed Session is authorized by subdivision (a) of Section 54956.9 of the Government Code and will pertain to existing litigation in one matter.

Bell, et al. vs. City of Fremont, City Council, Case No. RG11575493

This Special Meeting is being called by Mayor Wasserman.

**AGENDA**  
**FREMONT CITY COUNCIL REGULAR MEETING**  
**MAY 24, 2011**  
**COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A**  
**7:00 P.M.**

**1. PRELIMINARY**

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

**2. CONSENT CALENDAR**

*Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.*

- 2.1 *Motion to Waive Further Reading of Proposed Ordinances*  
*(This permits reading the title only in lieu of reciting the entire text.)*

- 2.2 *Approval of Minutes – None.*

**2.3 PURCHASE OF DELL COMPUTING EQUIPMENT**

*Authorize the City Manager or Designee to Participate in the Western States Contracting Alliance Master Price Agreement with Dell Marketing L.P. by Issuing Purchase Orders for Dell Computing Equipment and Related Services and to Take Any Necessary Implementing Actions*

*Contact Person:*

*Name: Marilyn J. Crane*  
*Title: Director*  
*Dept.: Information Technology Services*  
*Phone: 510-494-4802*  
*E-Mail: mcrane@fremont.gov*

*RECOMMENDATION: Authorize the City Manager or his designee to participate in the WSCA Master Price Agreement with Dell Marketing L.P., for the period ending*

*August 31, 2012, and for the extension through August 31, 2014, if such option is exercised by issuing a purchase order to Dell Marketing L.P., for Dell computing equipment and related services not to exceed \$450,000 in FY 2010/11, and by issuing purchase orders to Dell Marketing L.P., for computing equipment, subject to the adoption of the applicable budget, in subsequent fiscal years through 2014, in the amount appropriated in each such budget; and to execute any implementing documents and take any implementing actions as necessary.*

**2.4 APPROVAL OF FINAL MAP OF TRACT 7910 AT 41075 RAILROAD AVENUE BY PULTE HOME CORPORATION INC., A MICHIGAN CORPORATION.**

*Approval of Final Map, Improvement Plans, Improvement Agreements for Construction of Public Improvements (High Street, Union Street and Trail Improvements) and Private Street Improvements (Farallon Common, Briones Terrace, Asilomar Terrace, Union Common, Estero Terrace, Moss Landing Terrace, Pescadero Terrace, Pinnacles Terrace, Pismo Terrace, Tamalpais Terrace, Tassajara Terrace and Tomales Terrace), and Dedication of Land and Public Easements for Tract 7910*

**Contact Person:**

<b>Name:</b>	<i>Dilip Kishnani</i>	<i>Norm Hughes</i>
<b>Title:</b>	<i>Associate Civil Engineer</i>	<i>City Engineer</i>
<b>Dept.:</b>	<i>Public Works</i>	<i>Public Works</i>
<b>Phone:</b>	<i>510-494-4736</i>	<i>510-494-4748</i>
<b>E-Mail:</b>	<i>dkishnani@fremont.gov</i>	<i>nhughes@fremont.gov</i>

**RECOMMENDATION: Adopt a resolution:**

- 1. Approving the Final Map and the Improvement Plans for Tract 7910.*
- 2. Approving the Agreement for Public Improvements entitled, "Public Improvement Agreement, Tract 7910", with the developer, Pulte Home Corporation Inc., a Michigan corporation, and authorizing the City Manager to execute the agreement on behalf of the City.*
- 3. Approving the Agreement for Private Improvements entitled, "Private Improvement Agreement, Tract 7910", with the developer, Pulte Home Corporation Inc., a Michigan corporation, and authorizing the City Manager to execute the agreement on behalf of the City.*
- 4. Accepting the developer's offer of dedication of land, as identified on the Final Map, provided that the acceptance of the offer of dedication for any public improvements shall be conditioned upon the developer's completion of improvements to the satisfaction of the City Engineer.*

**2.5 APPROVAL OF FINAL MAP FOR TRACT 7972 IRVINGTON COMMONS AT 41778 FREMONT BOULEVARD BY IRVINGTON COMMON, LLC.**

*Approval of Final Map, Improvement Plans, Improvement Agreements for Construction of Public Improvements (Fremont Boulevard) and Private Improvements (Wild Indigo Common and Wild Indigo Terrace), and Dedication of Public Easements for Tract 7972*

*Contact Person:*

<i>Name:</i>	<i>Andrew Russell</i>	<i>Norm Hughes</i>
<i>Title:</i>	<i>Senior Civil Engineer</i>	<i>City Engineer</i>
<i>Dept.:</i>	<i>Engineering/Public Works</i>	<i>Engineering/Public Works</i>
<i>Phone:</i>	<i>510-494-4534</i>	<i>510-494-4748</i>
<i>E-Mail:</i>	<i>arussell@fremont.gov</i>	<i>nhughes@fremont.gov</i>

*RECOMMENDATION: Adopt a resolution:*

- 1. Approving the Final Map and the Improvement Plans for Tract 7972.*
- 2. Approving the Agreement for Public Improvements entitled, "Improvement Agreement, Tract 7972", with the developer, Irvington Common LLC., a California limited liability company, and authorizing the City Manager to execute the agreement on behalf of the City.*
- 3. Approving the Agreement for Private Improvements entitled, "Private Improvement Agreement, Tract 7972", with the developer, Irvington Common LLC., a California limited liability company, and authorizing the City Manager to execute the agreement on behalf of the City.*
- 4. Accepting the developer's offer of dedication of easements, as identified on the Final Map.*

**2.6 IRVINGTON AREA PEDESTRIAN IMPROVEMENTS CONTRACT AWARD**

*Approval of Plans and Specifications and Award of Contract in the Amount of \$193,245 to the Lowest Responsible Bidder for the Irvington Area Pedestrian Improvements Project on Fremont Boulevard between Eugene Street and Washington Boulevard, City Project No. 8704 (PWC)*

*Contact Person:*

<i>Name:</i>	<i>Rene Dalton</i>	<i>Kunle Odumade</i>
<i>Title:</i>	<i>Associate Transportation Engineer</i>	<i>Transportation Engineer</i>
<i>Dept.:</i>	<i>Public Works</i>	<i>Public Works</i>
<i>Phone:</i>	<i>510-494-4535</i>	<i>510-494-4746</i>
<i>E-Mail:</i>	<i>rdalton@fremont.gov</i>	<i>kodumade@fremont.gov</i>

*RECOMMENDATION:*

- 1. Approve the plans and specifications for the Irvington Area Pedestrian Improvements Project on Fremont Boulevard between Eugene Street and Washington Boulevard, City Project No. 8704 (PWC).*
- 2. Accept the bid and award the construction contract for the Irvington Area Pedestrian Improvements Project on Fremont Boulevard between Eugene Street and Washington Boulevard to the lowest responsive and responsible bidder, Sposeto Engineering, Inc., in the amount of \$193,245 and authorize the City Manager or his designee to execute the contract.*

**2.7 FREMONT UNIFIED SCHOOL DISTRICT RECYCLING COORDINATOR GRANT**

*Consideration of Continued Funding to Fremont Unified School District for District-wide Recycling and Waste Management Program Coordination Totaling \$365,000 for a Five-Year Period Commencing July 2011*

*Contact Person:*

<i>Name:</i>	<i>Chanel Kincaid</i>	<i>Ken Pianin</i>
<i>Title:</i>	<i>Environmental Specialist I</i>	<i>Solid Waste Administrator</i>
<i>Dept.:</i>	<i>Community Services</i>	<i>Community Services</i>
<i>Phone:</i>	<i>510-494-4574</i>	<i>510-494-4582</i>
<i>E-Mail:</i>	<i>ckincaid@fremont.gov</i>	<i>kpianin@fremont.gov</i>

*RECOMMENDATION:*

- 1. Authorize the City Manager or designee to execute an agreement between the City of Fremont and the Fremont Unified School District for five-year grant funding (subject to annual City Council appropriation) of \$365,000 for FYs 2011/12 through 2015/16 to the Fremont Unified School District for continuation of district-wide recycling and waste management coordination.*
- 2. Authorize City staff, upon execution of the agreement, to release the grant funds (\$70,000) for FY 2011/12 for FUSD district-wide recycling and waste management coordination.*
- 3. Authorize City staff, subject to annual City Council appropriation, to release grant funds for FYs 2012/13, 2013/14, 2014/15, and 2015/16 upon successful completion of grant goals, tasks, and performance measures as outlined in the agreement.*

**2.8 FINAL MAP FOR TRACT 8049 AND IMPROVEMENT AGREEMENT - PLANNING AREA 5, PACIFIC COMMONS - CATELLUS LAND AND DEVELOPMENT CORPORATION**

*Approval of Final Map for Tract 8049 and Improvement Agreement for Planning Area 5 Tract 8049 for the Construction of Public Streets (Bunche Drive and Pacific Commons Boulevard) and Dedication of Land and Public Easements - Pacific Commons*

*Contact Person:*

<i>Name:</i>	<i>Jayson Imai</i>	<i>Norm Hughes</i>
<i>Title:</i>	<i>Associate Civil Engineer</i>	<i>City Engineer</i>
<i>Dept.:</i>	<i>Engineering/Public Works</i>	<i>Engineering/Public Works</i>
<i>Phone:</i>	<i>510-494-4732</i>	<i>510-494-4748</i>
<i>E-Mail:</i>	<i>jimai@fremont.gov</i>	<i>nhughes@fremont.gov</i>

*RECOMMENDATION: Adopt a resolution:*

- 1. Approving the final map and the improvement plans for Tract 8049.*
- 2. Approving the Agreement for Public Street Improvements entitled, "Improvement Agreement Public Street Improvements Tract 8049", with the developer, Catellus Land and Development Corporation, and authorizing the City Manager to execute the agreement on behalf of the City.*
- 3. Accepting the developer's offer of dedication of land, as identified on the final map, provided that the acceptance of the offer of dedication of land for any public improvements shall be conditioned upon the developer's completion of improvements to the satisfaction of the City Engineer.*



2.9 *DRISCOLL ROAD HOMES (ALSO KNOWN AS THE ADVENTIST/ROBSON SUBDIVISION) – 225 DRISCOLL ROAD*

*Consideration of Planning Commission Recommendation to Introduce an Ordinance Adopting a Precise Planned District (P-2010-280), and to Approve a Preliminary Grading Plan, Private Street, Variance for a Modified Public Street, and Vesting Tentative Tract Map 8052 to Develop a 9-lot Single-Family Residential Subdivision on a Vacant Portion of the Seventh-Day Adventist Church Property (PLN2010-00280)*

*Contact Person:*

<i>Name:</i>	<i>Stephen Kowalski</i>	<i>Jeff Schwob</i>
<i>Title:</i>	<i>Associate Planner</i>	<i>Interim Director</i>
<i>Dept.:</i>	<i>Community Development</i>	<i>Community Development</i>
<i>Phone:</i>	<i>510-494-4532</i>	<i>510-494-4527</i>
<i>E-Mail:</i>	<i>skowalski@fremont.gov</i>	<i>jschwob@fremont.gov</i>

*RECOMMENDATION: Continue the proposed project to June 7, 2011 to allow the applicant and staff additional time to review the revised exhibits, and reintroduce the ordinance at that time.*

2.10 *SABERCAT CREEK RESTORATION CONTRACT AWARD*

*Approval of Plans and Specifications and Award of Contract in the Amount of \$1,317,717 to the Lowest Responsible Bidder for the Sabercat Creek Restoration Project, City Project No. 8658(PWC)*

*Contact Person:*

<i>Name:</i>	<i>Jeanne Suyeishi</i>	<i>Norm Hughes</i>
<i>Title:</i>	<i>Associate Civil Engineer</i>	<i>City Engineer</i>
<i>Dept.:</i>	<i>Public Works</i>	<i>Public Works</i>
<i>Phone:</i>	<i>510-494-4728</i>	<i>510-494-4748</i>
<i>E-Mail:</i>	<i>jsuyeishi@fremont.gov</i>	<i>nhughes@fremont.gov</i>

*RECOMMENDATIONS:*

- 1. Approve the Plans and Specifications for the Sabercat Creek Restoration Project between I-680 and Pine Street, City Project No. 8658 (PWC).*
- 2. Accept the bid and award the construction contract for the Sabercat Creek Restoration Project between I-680 and Pine Street, 8658 (PWC) to the lowest responsible bidder, Gordon N. Ball, Inc., in the amount of \$1,317,717 and authorize the City Manager or his designee to execute the contract.*
- 3. Approve an appropriation of \$90,000 from Fund 123 City Urban Runoff Program to the Sabercat Creek Restoration Project, 123PWC8658.*

2.11 *AMENDMENT TO THE VEHICLE REPLACEMENT FUND APPROPRIATION AND PURCHASE OF FLEET REPLACEMENT VEHICLES AND EQUIPMENT*

*Approve an Amendment to the Vehicle Replacement Fund (Fund 610) Appropriation in an Amount Not to Exceed \$611,555; Authorize the City Manager to Execute a Purchase Order with Kelly Equipment in an Amount not to Exceed \$303,264 for the Purchase of a Compressed Natural Gas (CNG) Broom Sweeper; Authorize the City*

*Manager to Execute a Purchase Order with Municipal Maintenance Equipment, Inc., in an Amount not to Exceed \$308,291 for the Purchase of a Vac-Con Truck Mounted Combination Vacuum Pressure Storm Drain Cleaner*

**Contact Person:**

<b>Name:</b>	<i>Mark P. Collins</i>	<i>Frank Morgan</i>
<b>Title:</b>	<i>Fleet Maintenance Manager</i>	<i>Deputy Director of Maintenance Operations</i>
<b>Dept.:</b>	<i>Public Works</i>	<i>Public Works</i>
<b>Phone:</b>	<i>510-979-5739</i>	<i>510-979-5701</i>
<b>E-Mail:</b>	<i>mcollins@fremont.gov</i>	<i>fmorgan@fremont.gov</i>

**RECOMMENDATION:**

- 1. Approve an appropriation amendment of \$611,555 to the FY 2010/11 Vehicle Replacement budget from the Vehicle Replacement Fund (Fund 610) fund balance for a total FY 2010/11 Vehicle Replacement Fund (Fund 610) appropriation of \$2,121,881.*
- 2. Authorize the City Manager or designee to execute a purchase order with Kelly Equipment in an amount not to exceed \$303,264 for the purchase of a compressed natural gas broom sweeper utilizing the City of Bakersfield's low bid, IFB #10-11-12.*
- 3. Authorize the City Manager or designee to execute a purchase order with Municipal Maintenance Equipment, Inc., in an amount not to exceed \$308,291 for the purchase of a Vac-Con truck mounted combination vacuum pressure storm drain cleaner by utilizing the City of Sunnyvale's low bid, IFB #1008-13.*

**3. CEREMONIAL ITEMS**

- 3.1 Resolution: Recognizing Sergeant Jeff Campbell for 20 Years of Service

**4. PUBLIC COMMUNICATIONS**

- 4.1 Oral and Written Communications

REDEVELOPMENT AGENCY – The Redevelopment Agency Board will convene at this time and take action on the agenda items listed on the Redevelopment Agency Agenda. [See separate agenda](#) (yellow paper).

PUBLIC FINANCING AUTHORITY – The Public Financing Authority Board has been cancelled. [See separate notice](#) (lilac paper).

## CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

### 5. SCHEDULED ITEMS

#### 5.1 CENTRAL PARK SOUTH MAJOR PLANNED DISTRICT AMENDMENT (PLN2011-00111)

Public Hearing (Published Notice) to Consider Planning Commission Recommendation to Introduce an Ordinance Adopting a Major Planned District Amendment to P-2005-131 (Central Park South) Amending Conditions of Approval Related to Affordable Housing and Homeowner Association Requirements Located at 41075 Railroad Avenue in the Irvington Planning Area

Contact Person:

Name:	Jennifer Brame	Jeff Schwob
Title:	Associate Planner	Interim Director
Dept.:	Community Development	Community Development
Phone:	510-494-4554	510-494-4527
E-Mail:	jbrame@fremont.gov	jschwob@fremont.gov

RECOMMENDATION:

1. Hold public hearing.
2. Find that, consistent with CEQA Guideline 15162, no changes to the project or site circumstances have occurred, nor has new information of substantial importance been discovered, and the previously adopted Mitigated Negative Declaration and Mitigation Monitoring Plan are still valid and no further environmental analysis is required, and find this action reflects the independent judgment of the City of Fremont.
3. Find that proposed changes to the affordable housing plan and homeowners association requirements as shown in underline and strike-out in Exhibit “G,” Planned District P-2005-131, are in compliance with the City’s affordable housing ordinance and fulfill the applicable requirements set forth in the

- Fremont General Plan and Municipal Code.
4. Waive full reading and introduce an ordinance adopting amendments to the precise plan for P-2005-131, as shown on Exhibit “G,” findings and conditions of approval.
  5. Direct staff to prepare and the City Clerk to publish a summary of the ordinance.

5.2 **CONSIDER INITIATION OF A ZONING TEXT AMENDMENT TO THE AFFORDABLE HOUSING ORDINANCE**

Consider Whether to Initiate Amending Certain Provisions of the City’s Affordable Housing Ordinance (Article 21.7 of Title VIII Chapter 2 of the Fremont Municipal Code) Relating to Timing and Implementation Standards for Affordable Housing Requirements and Alternative Affordable Housing Plans

Contact Person:

Name:	Kelly Diekmann	Jeff Schwob
Title:	Senior Planner	Interim Director
Dept.:	Community Development	Community Development
Phone:	510-494-4540	510-494-4527
E-Mail:	kdiekmann@fremont.gov	jschwob@fremont.gov

RECOMMENDATION: Initiate a zoning text amendment and direct staff to prepare a report to the Planning Commission for consideration of the proposed amendments at a public hearing for a recommendation to the city council related to:

- A. *Amending alternative housing plan timelines for previously approved projects*
- B. *Affordable housing plan implementation timelines*
- C. *Eligible off-site alternative housing plan housing types*
- D. *Modifications to clarify existing language and process*

**6. REPORT FROM CITY ATTORNEY**

- 6.1 Report Out from Closed Session of Any Final Action

**7. OTHER BUSINESS**

- 7.1 **FISCAL YEAR 2011/12 PROPOSED OPERATING BUDGET**  
Presentation of Proposed FY 2011/12 Operating Budget

Contact Person:

Name:	Catherine Chevalier	Harriet Commons
Title:	Budget and Revenue Manager	Director
Dept.:	Finance	Finance
Phone:	510-494-4615	510-284-4010
E-Mail:	cchevalier@fremont.gov	hcommons@fremont.gov

RECOMMENDATION: Provide comments to staff.

7.2 **CONSIDERATION OF A NOTICE OF FUNDING AVAILABILITY FOR LOW AND MODERATE INCOME HOUSING FUNDS**

Consideration to Issue a Notice of Funding Availability (NOFA) for Use of Low and Moderate Income Housing Funds for Development of New Affordable Rental Housing

Contact Person:

Name:	Bill Cooper	Elisa Tierney
Title:	Housing Project Manager	Redevelopment Agency Director
Dept.:	Community Development	Community Development
Phone:	510-494-4520	510-494-4501
E-Mail:	bcooper@fremont.gov	etierney@fremont.gov

RECOMMENDATION: Adopt a resolution authorizing the issuance of a Notice of Funding Availability (NOFA) to solicit proposals for the development of affordable housing and authorizing the use of Housing Fund monies (as defined in the Executive Summary) to assist in the financing of such development.

**8. COUNCIL COMMUNICATIONS**

8.1 Council Referrals

8.1.1 MAYOR WASSERMAN REFERRAL: Appointment of Saumya Singhal to the Library Advisory Commission

8.2 Oral Reports on Meetings and Events

**9. ADJOURNMENT**





REPORT SECTION  
FREMONT CITY COUNCIL  
REGULAR MEETING

MAY 24, 2011





## **\*2.3 PURCHASE OF DELL COMPUTING EQUIPMENT**

**Authorize the City Manager or Designee to Participate in the Western States Contracting Alliance Master Price Agreement with Dell Marketing L.P. by Issuing Purchase Orders for Dell Computing Equipment and Related Services and to Take Any Necessary Implementing Actions**

### **Contact Person:**

Name: Marilyn J. Crane  
Title: Director  
Dept.: Information Technology Services  
Phone: 510-494-4802  
E-Mail: mcrane@fremont.gov

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**Executive Summary:** The City currently uses Dell for its desktop and laptop computing equipment and has purchased Dell equipment for the past eight years. The State of Minnesota Department of Administration, a member of the Western States Contracting Alliance (WSCA), entered into a Master Price Agreement with Dell Marketing L.P., for computer equipment, peripherals, and related services as a result of a public bidding process. WSCA is a cooperative group contracting consortium for states, including California, and political subdivisions, such as cities. The Master Price Agreement with Dell is effective from September 1, 2009 through August 31, 2012, with an optional renewal extension for two years through August 31, 2014. Annual expenditures to Dell are estimated to be \$450,000 in the current fiscal year, which the City Council has appropriated in the adopted FY 2010/11 Information Technology Services Department budget. Staff estimates that annual expenditures for replacement desktop and laptop computing equipment will not exceed \$275,000 in each of the next three fiscal years. Staff recommends that the City Council authorize the City Manager, or designee, to participate in the WSCA Master Price Agreement with Dell Marketing L.P., for the period ending August 31, 2012, and for the extension through August 31, 2014, if such option is exercised by issuing a purchase order to Dell Marketing L.P., for Dell computing equipment and related services not-to-exceed \$450,000 in FY 2010/11, and by issuing purchase orders to Dell Marketing L.P., for computing equipment, subject to the adoption of the applicable budget, in subsequent fiscal years through 2014 in the amount appropriated in each such budget.

**BACKGROUND:** The City currently uses Dell desktop and laptop computing equipment and has purchased Dell equipment through the WSCA contract since 2004. The Information Technology Services Department replaces computing equipment pursuant to a replacement cycle. The current replacement cycle for desktop and laptop equipment is five years. There is a need to replace approximately 290 computers in FY 2010/11 in conjunction with a project to upgrade the Microsoft Windows operating system from Windows XP to Windows 7.

**DISCUSSION/ANALYSIS:** The City selected Dell as the standard equipment for desktops and laptops based on service, support, reliability, timely delivery, and energy efficiency. Dell has its own customized "Premier" website that displays computer systems configured to meet City specifications along with related WSCA pricing. Dell on-site support is available on a next-day basis when needed. Dell equipment has been extremely reliable and Dell has been responsive when repairs are requested. Staff is able to track order status and shipment dates of equipment online. Equipment usually arrives

within one to two weeks after an order is placed. The Dell computing equipment is manufactured with energy efficient components such as the Energy Star feature that automatically powers down computers and displays to 15 watts or less when not in use.

The computing equipment is replaced based on a five-year life cycle. There are currently 838 desktop and laptop computers in use by City departments (excluding the mobile data computers used by the Police Department and Fire Department). In FY 2010/11, there are approximately 290 computers, at an estimated cost of \$450,000, scheduled for replacement in conjunction with a project to upgrade the Microsoft Windows operating system. In subsequent years, approximately 170 computers will be replaced each year.

Dell Marketing L.P., has a valid master pricing agreement publicly bid by the State of Minnesota Department of Administration on behalf of the WSCA. The State of California has a Participating Addendum in place with Dell, and the City may take advantage of the WSCA contract terms by issuing a purchase order directly to Dell. The WSCA contract leverages the collective buying power of multiple states and other governmental entities and enables the City to obtain more beneficial pricing due to the volume of purchases contemplated by the agreement as compared to the City requesting quotations for its own needs. The agreement contains baseline pricing with guaranteed discount levels. The discount increases based on the cumulative volume of the purchasing by agencies participating in the agreement. Therefore, the pricing varies on a year-to-year basis.

Public Contract Code Sections 10298 and 10299 authorize the City to utilize state contracts to purchase goods, information technology and services without competitive bidding. The City's purchasing ordinance also authorizes the City to enter into a contract for the acquisition of personal property based upon the terms of an agreement between the contractor and another public agency without a competitive bidding process, also known as "piggy-backing," where the City Manager makes the findings set forth in Fremont Municipal Code (FMC) Section 2-9702, as described below.

First, the terms of the contract are materially the same as the existing contract between the vendor and the State, in that the City would be using the WSCA agreement itself.

Second, the terms of the WSCA contract are more beneficial than the City would otherwise be able to obtain through its own competitive bidding process. The State of Minnesota Department of Administration, a member of the WSCA, issued a request for proposals and subsequently executed a valid master pricing agreement with Dell Marketing L.P. for its computing equipment and related services. The WSCA contract leverages the collective buying power of multiple states and other governmental entities and enables the City to obtain more beneficial pricing due to the volume of purchases contemplated by the agreement as compared to the City requesting quotations for its own needs. The WSCA agreement contains baseline pricing with guaranteed discount levels that increase based on the cumulative volume of the purchasing by agencies participating in the agreement.

Finally, the WSCA agreement is consistent with the purposes and goals of the purchasing code as set forth in FMC Section 2-9102. As evidenced by the State of California's participation in the agreement, the WSCA contract is structured to comply with California procurement codes, guidelines and policies, which are similar to those of the City.

**FISCAL IMPACT:** Funding for the annual replacement of computing equipment is appropriated each year. There is funding already appropriated for this purpose in the Information Technology Services Department FY 2010/11 budget (620-1716). Funding for subsequent fiscal years will be requested as part of the City's annual budget process.

**ENVIRONMENTAL REVIEW:** Not applicable.

**ENCLOSURE:** None.

**RECOMMENDATION:** Authorize the City Manager or his designee to participate in the WSCA Master Price Agreement with Dell Marketing L.P., for the period ending August 31, 2012, and for the extension through August 31, 2014, if such option is exercised by issuing a purchase order to Dell Marketing L.P., for Dell computing equipment and related services not to exceed \$450,000 in FY 2010/11, and by issuing purchase orders to Dell Marketing L.P., for computing equipment, subject to the adoption of the applicable budget, in subsequent fiscal years through 2014, in the amount appropriated in each such budget; and to execute any implementing documents and take any implementing actions as necessary.

**\*2.4 APPROVAL OF FINAL MAP OF TRACT 7910 AT 41075 RAILROAD AVENUE BY PULTE HOME CORPORATION INC., A MICHIGAN CORPORATION.**

**Approval of Final Map, Improvement Plans, Improvement Agreements for Construction of Public Improvements (High Street, Union Street and Trail Improvements) and Private Street Improvements (Farallon Common, Briones Terrace, Asilomar Terrace, Union Common, Estero Terrace, Moss Landing Terrace, Pescadero Terrace, Pinnacles Terrace, Pismo Terrace, Tamalpais Terrace, Tassajara Terrace and Tomales Terrace), and Dedication of Land and Public Easements for Tract 7910**

**Contact Person:**

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**Executive Summary:** The purpose of this report is to recommend that the City Council approve Final Map 7910, authorize the City Manager to execute agreements for construction of public and private improvements for Tract 7910, and accept the dedications of public streets and easements subject to improvement.

**DISCUSSION/ANALYSIS:** Tract 7910 is generally bounded to the north and south by two major roadways, Paseo Padre Parkway and Washington Boulevard, respectively. Directly west of the site is the former Union Pacific Railroad (UPRR) track right-of-way soon to be owned by the City. Directly east of the site are the relocated UPRR tracks and future Bay Area Rapid Transit District (BART) rail corridor. This project encompasses 12.86 acres and includes 145 detached single-family units, a 40-unit apartment building on a separate parcel at the southern end of the site and a 1.8 acre private open space area. Thirty-six (36) apartment units have been set aside for low and very low income households. The project is generally in conformance with Vesting Tentative Tract Map 7910 (PLN2005-00131), previously approved by the Planning Commission on November 13, 2008. The developer has created Covenants, Conditions, and Restrictions (CC&R's) for Tract 7910 which contain all of the required provisions of the Vesting Tentative Map.

The developer has signed an agreement and has posted bonds to guarantee construction of the public improvements (High Street, Union Street and trail improvements). Public improvements include widening High Street along the project frontage; establishing street connections through the old UPRR right-of-way at High Street and Union Street; trail improvements (paving & landscaping) along the easternmost twenty (20) feet of the abandoned sixty-foot wide UPRR corridor between Main Street and Paseo Padre Parkway; realigning the Union Street terminus through the rail corridor; removing and replacing pavement, sidewalk, curb, and gutter on Union Street; planting new street trees; grinding and overlaying portions of existing pavement; installing new streetlights; and other miscellaneous items of work. The bond amounts for construction of the public improvements is \$2,006,000 for faithful performance of the agreement and \$2,006,000 for payment of labor and materials, based on preliminary cost estimates.

The developer has signed an agreement and posted bonds to guarantee construction of the private and common area improvements (Farallon Common, Briones Terrace, Asilomar Terrace, Union Common, Estero Terrace, Moss Landing Terrace, Pescadero Terrace, Pinnacles Terrace, Pismo Terrace, Tamalpais Terrace, Tassajara Terrace and Tomales Terrace). The bond amount for construction of the private improvements is \$8,534,000 for faithful performance of the agreement and \$8,534,000 for payment of labor and materials, based on preliminary cost estimates. The Final Map and Improvement Plans have been reviewed and are now ready for City Council approval.

**ENVIRONMENTAL REVIEW:** In December 2008, the City Council approved and found that the Mitigated Negative Declaration circulated for the project adequately addresses potential impacts arising from the proposed project and the identified mitigation measures, which are incorporated as conditions of approval, will reduce potential impacts to less than significant levels. The Final Map and Improvement Plans are consistent with the original project description, scope of work, and identified mitigations of the adopted Mitigated Negative Declaration. No further environmental review is required.

**ENCLOSURES:**

- [Draft Resolution](#)
- [Site Plan \(6 sheets\)](#)

**RECOMMENDATION:** Adopt a resolution:

1. Approving the Final Map and the Improvement Plans for Tract 7910.
2. Approving the Agreement for Public Improvements entitled, “Public Improvement Agreement, Tract 7910”, with the developer, Pulte Home Corporation Inc., a Michigan corporation, and authorizing the City Manager to execute the agreement on behalf of the City.
3. Approving the Agreement for Private Improvements entitled, “Private Improvement Agreement, Tract 7910”, with the developer, Pulte Home Corporation Inc., a Michigan corporation, and authorizing the City Manager to execute the agreement on behalf of the City.
4. Accepting the developer’s offer of dedication of land, as identified on the Final Map, provided that the acceptance of the offer of dedication for any public improvements shall be conditioned upon the developer’s completion of improvements to the satisfaction of the City Engineer.

**\*2.5 APPROVAL OF FINAL MAP FOR TRACT 7972 IRVINGTON COMMONS AT 41778 FREMONT BOULEVARD BY IRVINGTON COMMON, LLC.**

**Approval of Final Map, Improvement Plans, Improvement Agreements for Construction of Public Improvements (Fremont Boulevard) and Private Improvements (Wild Indigo Common and Wild Indigo Terrace), and Dedication of Public Easements for Tract 7972**

**Contact Person:**

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**Executive Summary:** The purpose of this report is to recommend that the City Council approve Final Map 7972, authorize the City Manager to execute agreements for the construction of public and private improvements for Tract 7972, and accept the dedications of easements.

**DISCUSSION/ANALYSIS:** Tract 7972 is located on the east side of Fremont Boulevard, between Carol Avenue and Blacow Road, in the Irvington District. The project encompasses 0.69 acres and includes 15 townhouse lots. The project is generally in conformance with Vesting Tentative Tract Map 7972 (PLN2008-00265), approved by the Planning Commission on May 8, 2008. The developer, Irvington Common LLC, has created Covenants, Conditions, and Restrictions (CC&Rs) for Tract 7972 that are consistent with and implement all of the provisions of the Vesting Tentative Map.

The developer has signed an agreement and posted bonds to guarantee construction of the public improvements (Fremont Boulevard). Public improvements include removing an existing driveway and sidewalk; installing a new driveway and sidewalk; planting street trees; grinding and overlaying portions of existing pavement; and other miscellaneous items of work. The bond amounts for construction of the public improvements are \$57,000 for faithful performance of the agreement and \$57,000 for payment of labor and materials, based on preliminary cost estimates.

The developer has signed an agreement and posted bonds to guarantee construction of the private and common area improvements (Wild Indigo Common and Wild Indigo Terrace). The bond amounts for construction of the private improvements are \$386,000 for faithful performance of the agreement and \$386,000 for payment of labor and materials, based on preliminary cost estimates. The Final Map and Improvement Plans have been reviewed and are now ready for City Council approval.

**FISCAL IMPACT:** There is no impact to the City. All improvements will be paid for by the developer.

**ENVIRONMENTAL REVIEW:** In May 2008, the Planning Commission found Vesting Tentative Tract Map 7972 to be categorically exempt in accordance with CEQA guideline 15332, which exempts small infill development projects that are consistent with underlying zoning from further environmental review. The Final Map and Improvement Plans are consistent with the original project description, scope of work, and tentative map conditions of approval. No further environmental review is required.

**ENCLOSURES:**

- [Draft Resolution](#)
- [Site Plan](#)

**RECOMMENDATION:** Adopt a resolution:

1. Approving the Final Map and the Improvement Plans for Tract 7972.
2. Approving the Agreement for Public Improvements entitled, “Improvement Agreement, Tract 7972”, with the developer, Irvington Common LLC., a California limited liability company, and authorizing the City Manager to execute the agreement on behalf of the City.
3. Approving the Agreement for Private Improvements entitled, “Private Improvement Agreement, Tract 7972”, with the developer, Irvington Common LLC., a California limited liability company, and authorizing the City Manager to execute the agreement on behalf of the City.
4. Accepting the developer’s offer of dedication of easements, as identified on the Final Map.

**\*2.6 IRVINGTON AREA PEDESTRIAN IMPROVEMENTS CONTRACT AWARD**  
**Approval of Plans and Specifications and Award of Contract in the Amount of \$193,245 to the Lowest Responsible Bidder for the Irvington Area Pedestrian Improvements Project on Fremont Boulevard between Eugene Street and Washington Boulevard, City Project No. 8704 (PWC)**

**Contact Person:**

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**Executive Summary:** The purpose of this report is to recommend that City Council approve the plans and specifications for the Irvington Area Pedestrian Improvements Project on Fremont Boulevard between Eugene Street and Washington Boulevard, City Project No. 8704 (PWC), accept the bid and award the contract for construction to Sposeto Engineering, Inc., the lowest responsive and responsible bidder, in the amount of \$193,245.

**BACKGROUND:** On April 23, 2009, the City was awarded a \$342,000 Measure B Bicycle and Pedestrian Discretionary Grant to construct pedestrian improvements at six intersections along Fremont Boulevard between Eugene Street and Washington Boulevard in the Irvington District. The Measure B Program Bicycle and Pedestrian Countywide Discretionary Fund is a competitive grant program funded from the five percent of Measure B funds dedicated to bicycle and pedestrian programs. The grant fund program goal is to expand and enhance bicycle and pedestrian access, convenience, safety and usage in Alameda County, focusing on projects with countywide significance. Project improvements include construction of bulb-outs, median refuge islands, American Disability Act (ADA) compliant curb ramps, and accessible pedestrian signal devices; minor modification of existing roadway striping and signing; and installation of pedestrian count-down signals. On June 9, 2009, the City Council accepted the Measure B Bicycle and Pedestrian Discretionary Grant in the amount of \$342,000 for the Irvington Area Pedestrian Improvements Project.

**DISCUSSION/ANALYSIS:** The Irvington Area Pedestrian Improvements project was developed by staff from elements of the 2006 Alameda Countywide Strategic Pedestrian Plan and the City's Pedestrian Master Plan Projects list. The Irvington area of Fremont Boulevard is categorized in the Alameda County Strategic Pedestrian Plan as a "High Priority Transit Corridor," and the Irvington District is classified as a Commercial District having countywide significance. The proposed project was supported and recommended by the City's Bicycle and Pedestrian Technical Advisory Committee at its November 19, 2008 regular meeting and is consistent with the projects in the current Fremont Pedestrian Master Plan adopted by Council in December 2007.

The Irvington Area Pedestrian Improvements Project calls for pedestrian improvements at six intersections along Fremont Boulevard between Eugene Street and Washington Boulevard. The proposed improvements includes construction of bulb-outs and median refuge islands, American Disability Act (ADA) compliant curb ramps, accessible pedestrian signal devices, modification of



existing roadway striping, upgrading existing traffic signage, and installation of pedestrian count-down signals at signalized intersections.

This segment of Fremont Boulevard in the Irvington District consists of 7 bus stops/shelters, three bus lines (Line 210, 212, and 350), numerous shops, retail services, restaurants, offices, multi-unit housing, senior housing, and is within a third of a mile of the proposed Irvington BART Station. The project will improve pedestrian facilities and pedestrian safety in the Irvington area, and facilitate access to bus stops along Fremont Boulevard.

**Bid Results:** The following bids were received on April 28, 2011 for the Irvington Area Pedestrian Improvements Project:

<u><b>BIDDER</b></u>	<u><b>TOTAL BID</b></u>	<u><b>RANK</b></u>
Sposeto Engineering, Inc.	\$193,245	1
Wattis Construction Co., Inc.	\$222,550	2
JJR Construction, Inc.	\$237,725	3
Granite Rock Company DBA Pavex Construction Division	\$239,700	4
Engineer's Estimate	\$200,000	

The low monetary bidder, Sposeto Engineering, Inc., had a responsive bid, is experienced in this type of project, and is a responsible contractor. The contractor has completed contracts of a similar nature with the City in a satisfactory manner.

**FISCAL IMPACT:** The following is a summary of actual and estimated project costs:

Preliminary Engineering, Design & Administration	\$65,315
Construction Contract (Low Bid)	\$193,245
(Includes \$20,000 in construction contingency)	
Construction Inspection, Surveying and Administration (estimate)	\$30,000
Project Contingencies & Project Close out	<u>\$30,000</u>
<b>Total Estimated Cost:</b>	<b>\$318,560</b>

Funding programmed for the project is as follows:

<u>Source</u>	<u>Description</u>	
Fund 509	ACTC Measure B-Bike/Pedestrian Funds	\$58,000
Fund 504	ACTC Capital Grants	<u>\$342,000</u>
	<b>Total Estimated Available Funding</b>	<b>\$400,000</b>

Based on the current project estimate, there is sufficient funding to complete this project.

**ENVIRONMENTAL REVIEW:** This project is categorically exempt under Section 15301 (c) of the Guidelines for the California Environmental Quality Act (CEQA) as a minor alteration of an existing facility. A Notice of Exemption/Statement of Exemption will be filed with the County Clerk.

**Maintenance Impact:** The annual cost of maintenance for labor and materials for this project is within the existing operating budget.

**ENCLOSURE:** [Project plan](#)

**RECOMMENDATION:**

1. Approve the plans and specifications for the Irvington Area Pedestrian Improvements Project on Fremont Boulevard between Eugene Street and Washington Boulevard, City Project No. 8704 (PWC).
2. Accept the bid and award the construction contract for the Irvington Area Pedestrian Improvements Project on Fremont Boulevard between Eugene Street and Washington Boulevard to the lowest responsive and responsible bidder, Sposeto Engineering, Inc., in the amount of \$193,245 and authorize the City Manager or his designee to execute the contract.

**\*2.7 FREMONT UNIFIED SCHOOL DISTRICT RECYCLING COORDINATOR GRANT  
Consideration of Continued Funding to Fremont Unified School District for District-wide Recycling and Waste Management Program Coordination Totaling \$365,000 for a Five-Year Period Commencing July 2011**

**Contact Person:**

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**Executive Summary:** Staff is recommending the City Council authorize the City Manager to execute an agreement with Fremont Unified School District (FUSD) that will provide \$365,000 in grant funding over a five-year period to FUSD for on-site coordination of district-wide recycling diversion and waste management programs. This would be a successor to the current three-year grant, set to expire on June 30, 2011. The successor grant agreement would continue the existing funding level of \$70,000 per year for FY 2011/12 - FY 2012/13, and would increase to \$75,000 per year for FY 2013/14 – FY 2015/16 to adjust for inflation. This financial assistance is necessary in order for FUSD to retain the current Recycling Coordinator function needed for district-wide waste diversion programs. The City has an interest in supporting FUSD waste reduction efforts because the success of these programs has a significant impact the City's total waste diversion rate.

The proposed level of funding for the next grant cycle would support existing programs along with an expanded scope of work including performance requirements. Funds would be allocated from a portion of Measure D fees, a landfill disposal surcharge collected by the County and redistributed to Alameda County jurisdictions. Environmental Services staff would provide grant administration and oversight. There would be no impact on the City's General Fund.

**BACKGROUND:** City support of FUSD waste diversion programs began in 1997 with classroom recycling programs. Since then, the recycling program has expanded from classroom recycling to include diversion of heavy and bulky waste materials from FUSD district administration offices and district-wide operations, as well as food waste collection. Starting in 2001, this support has been structured as a multi-year grant primarily focused on funding an on-site Recycling Coordinator. Since then the City and FUSD have built on program history and positive diversion results from the district-wide recycling efforts. Highlights of program implementation during the current three-year grant cycle include the following:

- *Diversion Goal* - Achieved a 43% actual diversion rate through FY 2009/10 with a goal of 45% diversion for FY 2010/11.
- *Improved Efficiency of Waste Handling Operations* - Implemented cost saving measures such as decreased refuse collection in summer months
- *Expanded Hazardous Waste Collection* - Focused on collection and disposal of hazardous waste from new FUSD locations.

- *Food Scrap Recycling* - Successfully implemented food waste recycling programs at Brier and Mattos Elementary Schools and Kennedy, American, Irvington and Washington High School.
- *New Policies* - Eliminated styrofoam lunch trays from FUSD cafeterias.

**DISCUSSION/ANALYSIS:** With nearly 31,800 students, FUSD has the equivalent population of some smaller California jurisdictions. One of the largest commercial customers in the city, FUSD generates approximately 2% of the overall waste stream in Fremont. Improved recycling and diversion at FUSD helps the City achieve its diversion goals. Therefore, the City of Fremont has an interest in assuring waste reduction efforts at FUSD through continued funding of an on-site Recycling Coordinator.

Environmental Services is interested in continuing the development and sustainability of FUSD's waste diversion programs, including organics and hazardous materials. Working together, FUSD and the City have successfully expanded the program from the classroom and selected model school sites to district-wide efforts involving the institution's administration and operational activities. This framework and team effort have resulted in greater waste diversion and increased environmental education opportunities.

*Proposed Grant Elements:* For the next five-year grant period, the City would continue to provide funding, grant management, and administrative oversight. As in the last grant, conditions of the renewed grant would be spelled out in the grant letter agreement document. Conditions would include, but not be limited to, the following:

#### ***Funding/Eligibility***

*Grant Period:* The payment for the new five-year grant period would be \$70,000 per year for FY 2011/12 through FY 2012/13 increasing to \$75,000 per year from FY 2013/14 through FY 15/16.

*Eligibility:* Annual grant fund distributions would be subject to annual appropriation by the City council and contingent upon the Recycling Coordinator completing a City-approved work plan that identifies tasks to achieve the grant goals listed under *Grant Management* (see next section). The work plan will be reviewed throughout the year by City staff to insure progress is being made toward stated goals.

#### ***Contractor Qualifications, Grant Management, Reporting and Scope of Work***

*Contractor Qualifications:* Should FUSD need to change contractors for this service, the City would participate in the contractor selection process for the grant-funded Recycling Coordinator. As in the previous grant, the position profile would stipulate the qualifications for a technical specialist in integrated solid waste management with a focus on first-hand experience in school recycling programs. Selection of a new Recycling Coordinator must be acceptable to the City.

*Grant Management:* The City would continue to retain grant management and reporting oversight. City staff would administer the grant, including requirements of monthly reports and face-to-face briefing sessions. Annual reports would be submitted to the City with documentation of expenditures for contractor services. Tracking mechanisms would be identified, designed, and included in the scope of work. Tracking of program tonnage would be submitted as part of the annual report to the

City's grant administrator. Submission dates would be negotiated and included in the scope of work (Five-Year Plan) as part of the implementation of the grant.

*Scope of Work:* The City has worked with the FUSD Recycling Coordinator to revise the current scope of work to reflect goals for the next grant cycle based on mutually agreed-upon program needs, goals and previous program results as summarized below.

The Recycling Coordinator would support attainment of a 50% overall diversion rate by the end of the five-year grant cycle (currently 43%) through managing existing programs and implementing new strategies, as follows:

**Establish Food Scrap Collection Program**

- Divert food scraps and food soiled paper from the waste stream.
- Evaluate diversion and cost benefits from food scrap diversion.

**Conduct Waste Assessments**

- Conduct inspections of solid waste collection activities.
- Target common recycling materials that were disposed of improperly and provide appropriate outreach material.
- Decrease garbage volumes and increase recycling and food scrap collection.

**Class Recycling Programs**

- Increase classroom participation in recycling programs by providing outreach, technical assistance and/or recycling supplies to improve classroom recycling diversion.

**Environmental Preferable Purchasing**

- Initiate a district-wide purchasing program of recycled-content paper and other products containing recycled-content materials and/or low toxic ingredients.

**Hazardous Materials**

- Manage hazardous waste diversion from district operations.
- Participate in the countywide battery collection program.

**Construction and Demolition Debris**

- Improve recycling on construction and demolition debris district wide.

Progress toward the diversion target will be evaluated annually. In the event that FUSD appears to be falling short of achieving the diversion goal, the Recycling Coordinator would be required to submit a plan to the City that outlines corrective steps that will be taken to improve FUSD's diversion rate.

**FISCAL IMPACT:** The grant to FUSD would come from Measure D Fees, fund 115.4414. There would be no General Fund impact.

**ENVIRONMENTAL REVIEW:** Not applicable

**ENCLOSURE:** None.

**RECOMMENDATION:**

1. Authorize the City Manager or designee to execute an agreement between the City of Fremont and the Fremont Unified School District for five-year grant funding (subject to annual City Council appropriation) of \$365,000 for FYs 2011/12 through 2015/16 to the Fremont Unified School District for continuation of district-wide recycling and waste management coordination.
2. Authorize City staff, upon execution of the agreement, to release the grant funds (\$70,000) for FY 2011/12 for FUSD district-wide recycling and waste management coordination.
3. Authorize City staff, subject to annual City Council appropriation, to release grant funds for FYs 2012/13, 2013/14, 2014/15, and 2015/16 upon successful completion of grant goals, tasks, and performance measures as outlined in the agreement.

**\*2.8 FINAL MAP FOR TRACT 8049 AND IMPROVEMENT AGREEMENT - PLANNING AREA 5, PACIFIC COMMONS - CATELLUS LAND AND DEVELOPMENT CORPORATION**

**Approval of Final Map for Tract 8049 and Improvement Agreement for Planning Area 5 Tract 8049 for the Construction of Public Streets (Bunche Drive and Pacific Commons Boulevard) and Dedication of Land and Public Easements - Pacific Commons**

**Contact Person:**

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**Executive Summary:** The purpose of this report is to recommend that the City Council approve Final Map 8049, authorize the City Manager to execute an agreement for construction of public streets for Tract 8049, and accept the dedications of public streets and easements subject to improvement.

**BACKGROUND:** Tract 8049 is designated as Planning Area 5 within the Pacific Commons development. It is bordered to the north by Curie Street, to the south by Bunche Drive, to the east by Christy Street and to the west by Boscell Road. The project is part of Pacific Commons Planned District P2000-214, previously approved by City Council on May 9, 2000, and amended on July 22, 2003 (PLN2003-00166) and November 23, 2010 (PLN2010-00221). The Major Amendment approved by the City Council on November 23, 2010 allowed for the following: 1) the creation of a 321,000-square foot retail/entertainment district within Planning Area 5; 2) modification of Pacific Commons' circulation plan to create an urban internal public street for a segment of Pacific Commons Boulevard between Curie Street and Bunche Drive; 3) a zero-setback specific for Planning Area 5 for buildings along Pacific Commons Boulevard; and 4) a parking reduction in accordance FMC Section 8-22003 based on the proposed land uses and their different peak parking characteristics for Planning Area 5.

**DISCUSSION/ANALYSIS:** This project is a 10-lot subdivision with street improvements on Pacific Commons Boulevard, Bunche Drive and Christy Street. The common areas created by the subdivision will be maintained by the Pacific Commons Property Owners Association or Catellus Land and Development Corporation.

The developer has signed Improvement Agreements and posted bonds to guarantee construction of street improvements on Pacific Commons Boulevard, Christy Street and Bunche Drive and all other necessary public improvements. The bond amounts for construction of the public improvements are \$5,626,000 for the faithful performance of the agreement and \$5,626,000 for payment of labor and materials, based on preliminary cost estimates.

The final map has been checked and is in general conformance with Vesting Tentative Tract Map 8049 (PLN2011-00221), previously approved by the Planning Commission on November 23, 2010. A previous final parcel map (Parcel Map 9991) was approved by the City Engineer for the creation of Parcel 1 of Vesting Tentative Tract Map 8049 to facilitate the sale of the parcel to Target. Parcel Map

9991 also dedicated the northern half of the right-of-way necessary for the required street improvements on Bunche Drive between Boscell Road and Christy Street. The southern half of the required right-of-way for Bunche Drive has been dedicated by the adjacent land owner (Cisco Technologies, Inc.) and accepted by the City. The final map is consistent with the intent of the Planned District conditions and the Development Standards and Guidelines for Pacific Commons, and is ready for City Council approval. The civil engineer for the project is JMH Weiss and, as noted above, the developer is the Catellus Land and Development Corporation.

**FISCAL IMPACT:** There is no impact to the City. All improvements will be paid for by the developer.

**ENVIRONMENTAL REVIEW:** The City Council adopted the 2010 Supplement to the Final Environmental Impact Report for Pacific Commons (hereinafter “2010 Supplement”) and the 2010 Addendum to the Pacific Commons Mitigation Monitoring and Reporting Program (hereinafter “2010 MMRP Addendum”) on November 2, 2010. The 2010 Supplement identified and analyzed two additional impacts on regional air quality and greenhouse gas emissions. Mitigation measures that would reduce the identified impacts were identified by the 2010 Supplement; however, it was determined that with implementation of the mitigation measures, the identified impacts would remain significant and unavoidable. The Final Map and improvement plans are consistent with the original project description, scope of work, and identified mitigations of the adopted 2010 Supplement. No further environmental review is required.

**ENCLOSURES:**

- [Draft Resolution](#)
- [Site Plan](#)

**RECOMMENDATION:** Adopt a resolution:

1. Approving the final map and the improvement plans for Tract 8049.
2. Approving the Agreement for Public Street Improvements entitled, “Improvement Agreement Public Street Improvements Tract 8049”, with the developer, Catellus Land and Development Corporation, and authorizing the City Manager to execute the agreement on behalf of the City.
3. Accepting the developer’s offer of dedication of land, as identified on the final map, provided that the acceptance of the offer of dedication of land for any public improvements shall be conditioned upon the developer’s completion of improvements to the satisfaction of the City Engineer.



**\*2.9 DRISCOLL ROAD HOMES (ALSO KNOWN AS THE ADVENTIST/ROBSON SUBDIVISION) – 225 DRISCOLL ROAD**

**Consideration of Planning Commission Recommendation to Introduce an Ordinance Adopting a Precise Planned District (P-2010-280), and to Approve a Preliminary Grading Plan, Private Street, Variance for a Modified Public Street, and Vesting Tentative Tract Map 8052 to Develop a 9-lot Single-Family Residential Subdivision on a Vacant Portion of the Seventh-Day Adventist Church Property. (PLN2010-00280)**

**Contact Person:**

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**Executive Summary:** At the April 12, 2011 City Council meeting, the applicant requested that the proposed Preliminary & Precise Planned District be allowed to be redesigned with a public cul-de-sac leading to a private street as opposed to a single, full-length private street. Staff indicated that it was willing to support this redesigned street configuration, but additional time is still needed to work out the details of the proposed redesign. A continuance is requested to allow the applicant and staff additional time to prepare and review the revised Planned District, Tentative Tract Map, and Private Street exhibits featuring the redesigned street configuration.

**ENCLOSURES:** None

**RECOMMENDATION:** Continue the proposed project to June 7, 2011 to allow the applicant and staff additional time to review the revised exhibits, and reintroduce the ordinance at that time.

## **\*2.10 SABERCAT CREEK RESTORATION CONTRACT AWARD**

**Approval of Plans and Specifications and Award of Contract in the Amount of \$1,317,717 to the Lowest Responsible Bidder for the Sabercat Creek Restoration Project, City Project No. 8658(PWC)**

### **Contact Person:**

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**Executive Summary:** The purpose of this report is to recommend that City Council approve the plans and specifications for the Sabercat Creek Restoration Project, City Project No. 8658 (PWC), accept the bid and award the contract for construction to Gordon N. Ball, Inc., the lowest responsive and responsible bidder, in the amount of \$1,317,717.00.

**BACKGROUND:** The Sabercat Creek Restoration Project area is unique as it is one of the last natural riparian corridors in Fremont and provides urban open space with a large portion of the project area publicly accessible by trail. Unfortunately, urbanization upstream has caused detrimental downstream changes in Sabercat Creek, including severe bank erosion in certain locations that threatens existing trail access and negatively impacts water quality. The Sabercat Creek Restoration Project will stabilize sections of eroded creek bank and enhance the riparian habitat by removing exotic plants and reintroducing native plant species. The project will also close a 1,250 foot gap between existing trail segments on the east and west side of Paseo Padre Parkway, install fencing to protect the enhanced riparian habitat, and add amenities along the trail including interpretive signage, picnic tables and solar trash compactors. The project is expected to be completed by May 2012.

The 2007/2008–2011/2012 CIP included \$500,000 for the Sabercat Creek Restoration Project from Urban Runoff funds. In June 2008, the City, in partnership with Alameda County Flood Control & Water Conservation District (ACFC&WCD), was awarded a \$1.17 million grant from the State of California – California River Parkways Grant program, which will provide the majority of the capital funding needed for the \$1.95 million restoration project. On July 28, 2009, City Council authorized staff to enter into a cost sharing agreement with Alameda County Flood Control to contribute \$180,000 towards this project for the engineering design and permit application services. There will be no General Fund impact.

This project was presented at the November 17, 2010 Recreation Commission Meeting as an informational item to provide a project overview and to provide the Commission with background information regarding the grant, previous Council action items and a project timeline.

**Project Description:** The Sabercat Creek Restoration Project includes the following elements: 1) trail improvements; 2) new safety vehicle and ADA access west of Paseo Padre Parkway; 3) underpass trail connector at Paseo Padre Parkway; 4) installation of rock weirs at erosion areas; 5) installation of drain

inlets and bioswales to control flow; 6) biotechnical bank stabilization to stabilize the creek trail; 7) fencing to protect enhanced riparian habitat; and 8) riparian corridor enhancements.

The project will improve the existing trail by completing the unfinished segment, allowing users to traverse the trail in both directions. The trail will be completed with the construction of a 10-foot wide trail cut into the existing slope under the Paseo Padre Parkway overpass. The unfinished portions of the trail on either side of Paseo Padre Parkway will be widened and paved without the need for significant grading. The trail on the west side of Paseo Padre Parkway will also include safety vehicle and ADA access. Four areas along the creek trail have been identified with significant erosion that will be mitigated with biotechnical bank stabilization measures to create a safer environment for trail users including the installation of keystone and soldier pile walls and rock rip rap along the foot of the bank. Three areas in the creek have sharp direction and grade changes, which will be enhanced with rock weirs to control excessive sediment discharge, bank erosion and channel migration. A riparian planting area has been identified on the bank of the creek near Paseo Padre Parkway. The exotic plants in this area will be removed and native plants will be introduced and fenced off from cattle to promote the growth.

#### **DISCUSSION/ANALYSIS:**

**Bid Results:** Bids were received on May 17, 2011 for the Sabercat Creek Restoration Project between I-680 and Pine Street, City Project No. 8658 (PWC). Bids were received, as follows:

<b><u>BIDDER</u></b>	<b><u>TOTAL BID</u></b>	<b><u>ALT 1</u></b>	<b><u>ALT 2</u></b>	<b><u>RANK</u></b>
Gordon N. Ball, Inc.	\$1,317,717.00*	\$27,800.00	\$120,875.00	1
Pavex Construction	\$1,494,599.50*	\$52,995.00	\$103,437.50	2
W.R. Forde	\$1,871,066.50*	\$61,730.00	\$145,125.00	3
Engineer's Estimate	\$1,200,000.00			

\* Mathematically corrected

As stated in the project Special Provisions, determination of the low monetary bidder was based on the Base Bid without considering the alternate bid total. The low monetary bidder, Gordon N. Ball, Inc., is experienced in this type of project and is a responsible contractor.

Two add alternate bids items were included in the bid. All Alternate 1 was for additional landscaping work and Add Alternate 2 was for concrete trail pavement. Staff does not recommend awarding either of the alternate bid items because there are not enough available project funds.

**FISCAL IMPACT:** The Council previously appropriated \$500,000 from the Urban Runoff Program (Fund 123) for this project, although the majority of the project will be funded by a state grant. Once the project is completed, the City will be required to establish a dedicated maintenance fund to provide at least 25 years of projected maintenance needs, as required by the California River Parkways Grant program. This fund, estimated to be \$400,000, will be allocated from the Urban Runoff Program fund

balance (Fund 123). Maintenance will be incorporated into the City's annual budgets and funded from this dedicated maintenance fund.

**PROJECT COSTS AND FUNDING:** The following is a summary of actual and estimated project costs:

Biological Consultant: Olberding Environmental	\$ 46,800
Design Consultant: Questa Engineering Corporation	\$ 162,000
Survey Consultant: RBF Consulting	\$ 13,100
Geotechnical Consultant: Earth Systems Pacific	\$ 18,600
Electrical Consultant: AEI Engineers	\$ 4,300
Utility Locating Consultant: Exaro Technologies	\$ 1,700
City Staff Costs	\$ 148,000
Permit Costs (Regulatory & Building)	\$ 15,700
City Construction Inspection, Surveying and Administration	\$ 120,000
Special Inspections	\$ 31,700
Construction Contract (Base Bid)	\$1,317,717
(Includes \$116,000 in Construction Contingency)	
ACWD Connection Charges (Irrigation)	\$ 30,000
Project Contingency	\$ 34,000
<b>Total Estimated Costs:</b>	<b>\$1,943,617</b>

Funding programmed for the project is as follows:

Fund 123	City Urban Runoff Program	\$ 500,000
Fund 525	California Rivers Parkway Grant	\$ 1,173,960
Fund 502	Estimated Contribution from ACFCF	\$ 180,000
	<b>Total Estimated Available Funding:</b>	<b>\$ 1,853,960</b>

Based on the current project estimates, the project has an estimated deficit of \$89,657. Staff recommends that the shortfall be funded by \$90,000 from Fund 123, City Urban Runoff Program. There is sufficient funding in the program for the recommended appropriation.

**ENVIRONMENTAL REVIEW:** An Initial Study and Mitigated Negative Declaration (PLN2008-00114) was filed with the County Clerk in conformance with the requirements of Section 15070 of the California Environmental Quality Act (CEQA), with a finding that there is no substantial evidence that the project, as mitigated, will have an adverse effect on the environment. On November 23, 2010, City Council adopted the Mitigated Negative Declaration and Mitigation Monitoring Plan.

**ENCLOSURE:** [Sabercat Creek Site Plan](#)

#### **RECOMMENDATIONS:**

1. Approve the Plans and Specifications for the Sabercat Creek Restoration Project between I-680 and Pine Street, City Project No. 8658 (PWC).
2. Accept the bid and award the construction contract for the Sabercat Creek Restoration Project between I-680 and Pine Street, 8658 (PWC) to the lowest responsible bidder, Gordon N. Ball, Inc.,

in the amount of \$1,317,717 and authorize the City Manager or his designee to execute the contract.

3. Approve an appropriation of \$90,000 from Fund 123 City Urban Runoff Program to the Sabercat Creek Restoration Project, 123PWC8658.

**\*2.11 AMENDMENT TO THE VEHICLE REPLACEMENT FUND APPROPRIATION AND PURCHASE OF FLEET REPLACEMENT VEHICLES AND EQUIPMENT**

**Approve an Amendment to the Vehicle Replacement Fund (Fund 610) Appropriation in an Amount Not to Exceed \$611,555; Authorize the City Manager to Execute a Purchase Order with Kelly Equipment in an Amount not to Exceed \$303,264 for the Purchase of a Compressed Natural Gas (CNG) Broom Sweeper; Authorize the City Manager to Execute a Purchase Order with Municipal Maintenance Equipment, Inc., in an Amount not to Exceed \$308,291 for the Purchase of a Vac-Con Truck Mounted Combination Vacuum Pressure Storm Drain Cleaner**

**Contact Person:**

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**Executive Summary:** There are currently four vehicles and equipment that need to be replaced which include two vacuum storm drain cleaner trucks, one pressure storm drain cleaner trailer, and one diesel regenerative air sweeper, and require a Vehicle Replacement Fund (Fund 610) appropriation amendment in the amount of \$611,555 to procure their replacements. These vehicles and equipment are used by the Maintenance Division to perform solid waste-related activities in support of City activities performed pursuant to the California Integrated Waste Management Act (AB 939). Replacement of these specific vehicles and equipment is funded by contributions from the Integrated Waste Management Fund (Fund 115) to the Vehicle Replacement Fund (Fund 610). The Integrated Waste Management Fund (Fund 115) accounts for monies received by the City from solid waste collection fees and used to comply with the provisions of AB 939 for the purpose of carrying out solid waste management programs.

The four Integrated Waste Management vehicles and equipment to be replaced this fiscal year will be replaced with two vehicles: a truck-mounted combination vacuum pressure storm drain cleaner and a compressed natural gas broom street sweeper. The truck-mounted combination vacuum pressure storm drain cleaner is multi-functional and will replace two vacuum storm drain cleaner trucks and one pressure storm drain cleaner trailer. A diesel regenerative air sweeper will be replaced with a compressed natural gas broom street sweeper which will help to reduce the City's greenhouse gas emissions. In order to provide the best economic value to the City, these replacements will be procured by utilizing the City's ability to "piggyback" onto other public agency procurements for the same equipment in accordance with the City's Purchasing Ordinance (Fremont Municipal Code Section 2-9702). In order to effectuate these replacements, staff is recommending the following: 1) approval of an appropriation amendment of \$611,555 to the FY 2010/11 Vehicle Replacement budget from the Vehicle Replacement Fund (Fund 610) fund balance utilizing the IWM funds allocated for this purpose; 2) authorization for the City Manager or designee to execute a purchase order with Kelly Equipment in an amount not to exceed \$303,264 for the purchase of a compressed natural gas broom street sweeper utilizing the City of Bakersfield's competitive bid IFB #10-11-12; and 3) authorization for the City Manager or designee to execute a purchase order with Municipal Maintenance Equipment, Inc., in an

amount not to exceed \$308,291 for the purchase of a truck mounted combination vacuum pressure storm drain cleaner by utilizing the City of Sunnyvale's competitive bid IFB #1008-13.

**BACKGROUND:** The City's fleet is comprised of approximately 560 vehicles and pieces of equipment that include fire engines, police vehicles, general service vehicles, heavy equipment and generators. Economic operation of the City's fleet requires that vehicles and equipment be replaced before the maintenance and operating costs become prohibitive. The City's Administrative Regulation 4.2: Vehicle Policy and Procedures (AR 4.2) establishes general requirements, procedures, and guidelines for vehicle use in order to provide efficient, cost effective delivery of service. As such, the Fleet Maintenance Manager monitors fleet operating costs, and recommends replacement of vehicles and equipment based on factors that include age, mileage, maintenance/repair records, functional use, and salvage value. This effort results in the creation of an annual Fleet Replacement Plan that is used as the basis for establishing the annual Vehicle Replacement Fund (Fund 610) appropriation.

Staff's ongoing evaluation of the fleet revealed that it would be in the best economic and environmental interest of the City if the FY 2010/11 Fleet Replacement Plan was revised to include the replacement of an additional four vehicles and equipment that support the City's waste diversion efforts and are funded by Integrated Waste Management Fund (Fund 115) contributions to the Vehicle Replacement Fund (Fund 610). These four vehicles and equipment are at the end of their useful lives and would be replaced with two vehicles, one of which is multi-functional and can do the work of three vehicles. In order to effectuate this revision to the FY 2010/11 Fleet Replacement Plan, a Vehicle Replacement budget appropriation amendment of \$611,555 would be required, as well as Council approval of the procurements. These fleet replacements are not covered under Multi-Year Vehicle Purchase Bid #09-012 due to the complexity of their specifications, and will be replaced through "piggy backing" on procurements of other public agencies using their low-bid prices.

Fremont Municipal Code Chapter 9, Section 2-9702 authorizes the City to enter into a contract for the acquisition of personal property based upon the terms of an agreement between the contractor and another public agency without utilizing a formal solicitation process. This method of procurement is commonly referred to as "piggybacking". In instances where it is most beneficial to the City to "piggyback," staff will go through the proper administrative process to do so; otherwise, the formal solicitation process will be used.

**DISCUSSION/ANALYSIS:** The revised FY 2010/11 Fleet Replacement Plan calls for the replacement of 4 vehicles and equipment that have reached the end of their useful lives. An appropriation amendment would be necessary to fund the replacement of the additional four vehicles and equipment.

The four additional vehicles and equipment that staff is recommending for replacement are Integrated Waste Management Vehicles used by the Maintenance Division to perform solid waste-related activities. As such, they are funded by the Integrated Waste Management Fund (Fund 115) in support of the City's activities pursuant to the California Integrated Waste Management Act (AB 939). The Integrated Waste Management Fund (Fund 115) accounts for monies received by the City from solid waste collection fees and used to comply with the provisions of AB 939 for the purpose of carrying out solid waste management programs. The four vehicles and equipment requiring replacement include two vacuum storm drain cleaner trucks, one pressure storm drain cleaner trailer, and one diesel regenerative air sweeper. The two vacuum storm drain cleaner trucks and the pressure storm drain cleaner trailer will

be replaced with one multi-functional piece of equipment; a truck-mounted combination vacuum pressure storm drain cleaner. The truck-mounted combination vacuum pressure storm drain cleaner is specially designed for the maintenance, cleaning, and waste removal from drainage inlets. The diesel regenerative air sweeper will be replaced with a new alternative fueled compressed natural gas (CNG) broom street sweeper, which will help to continue “greening” the fleet by reducing greenhouse gases.

Staff is recommending a Vehicle Replacement Fund (Fund 610) budget appropriation amendment of \$611,555 to fund these additional replacements. The sweeper will be purchased from Kelly Equipment utilizing the low bid price from the City of Bakersfield, and the Vac-Con storm drain cleaner will be purchased from Municipal Maintenance Equipment, Inc., using the low bid price from the City of Sunnyvale’s procurement.

In 2010, staff arranged demonstrations with the three leading vendors of CNG street sweepers and the three leading vendors of storm drain cleaners to have them demonstrate their equipment. Staff evaluated the design, operation and cost of each vendor’s equipment and determined that the Schwarze M-6000 CNG street sweeper and the Vac-Con storm drain cleaner would best meet the City’s operational needs.

In July 2010, the City of Bakersfield issued a competitive bid (IFB #10-11-12) to vendors throughout California for the Schwarze Industries M-6000 CNG street sweeper specifications. Kelly Equipment was the successful low bidder, which resulted in a purchase agreement with Bakersfield that allows for other public agencies to “piggyback” on the low-bid price. The total purchase price for the Schwarze Industries M-6000 CNG street sweeper is \$303,264, which includes sales tax, dealer discount, and all delivery charges. Staff compared the City of Bakersfield’s purchase agreement pricing of Kelly Equipment, Inc. to the prices of other vendors and determined that by piggybacking onto the City of Bakersfield’s purchase agreement, the City can obtain the lowest possible price compared to what could be obtained by utilizing the conventional solicitation process. This piggyback method of procuring a Schwarze Industries M-6000 CNG street sweeper obtains the most cost effective result for the City, and meets the purpose and goals of the Purchasing Code in accordance with the Fremont Municipal code, Chapter 9, Section 2-9102.

In August 2010 the City of Sunnyvale issued a competitive bid (IFB #1008-13) to vendors throughout California for a Vac-Con storm drain cleaner. Municipal Maintenance Equipment, Inc. (MME), was the successful low-bidder. Sunnyvale subsequently entered into a purchase agreement with MME which allows for other public agencies to “piggyback” on the low bid price. The total purchase price for the Vac-Con Storm Drain Cleaner Truck is \$308,291, which includes sales tax, dealer discount, and all delivery charges. Staff compared the City of Sunnyvale’s purchase agreement pricing of Municipal Maintenance Equipment, Inc. to the prices of other vendors and determined that by piggybacking on the City of Sunnyvale’s purchase agreement the City can obtain the lowest possible price compared to what could be obtained by utilizing the conventional solicitation process. This piggyback method of procuring a Vac-Con Storm Drain Cleaner Truck obtains the most cost effective result for the City, and meets the purpose and goals of the Purchasing Code in accordance with the Fremont Municipal code, Chapter 9, Section 2-9102.

The competitive bids issued by the cities of Bakersfield and Sunnyvale best meet the City’s fleet needs for the 4 vehicles that remain to be replaced this fiscal year, and provide the best economic value to the City.



**FISCAL IMPACT:** Vehicle replacement funds are primarily collected in three ways: 1) through annual charges to City departments based on their actual vehicle and equipment fleet; 2) from the sale of retired vehicles and equipment; and 3) from allocations from the Integrated Waste Management Fund for procurement of vehicles and equipment used in solid waste related activities. Historically, the funds have been deposited into the Vehicle Replacement Fund (Fund 610) and then appropriated on an annual basis by the Council based on vehicle replacement needs in the coming fiscal year. Funds not used in one year have been retained in the fund for future years.

In FY 2010/11, \$1,510,326 was appropriated from the Vehicle Replacement Fund for the replacement of City vehicles and equipment. An additional appropriation of \$611,555 is required to purchase the new CNG street sweeper and the Vac-Con storm drain cleaner truck. Funding for these vehicles has been previously allocated for this purpose from the Integrated Waste Management Fund (Fund 115) and now resides in the Vehicle Replacement Fund (Fund 610). As of the month ended April 2011, the Vehicle Replacement Fund has a fund balance of \$4,055,238. Hence, there is sufficient funding in the Vehicle Replacement Fund (Fund 610) fund balance for this appropriation.

**ENVIRONMENTAL REVIEW:** N/A

**ENCLOSURE:** None.

**RECOMMENDATION:**

1. Approve an appropriation amendment of \$611,555 to the FY 2010/11 Vehicle Replacement budget from the Vehicle Replacement Fund (Fund 610) fund balance for a total FY 2010/11 Vehicle Replacement Fund (Fund 610) appropriation of \$2,121,881.
2. Authorize the City Manager or designee to execute a purchase order with Kelly Equipment in an amount not to exceed \$303,264 for the purchase of a compressed natural gas broom sweeper utilizing the City of Bakersfield's low bid, IFB #10-11-12.
3. Authorize the City Manager or designee to execute a purchase order with Municipal Maintenance Equipment, Inc., in an amount not to exceed \$308,291 for the purchase of a Vac-Con truck mounted combination vacuum pressure storm drain cleaner by utilizing the City of Sunnyvale's low bid, IFB #1008-13.

## 5.1 CENTRAL PARK SOUTH MAJOR PLANNED DISTRICT AMENDMENT (PLN2011-00111)

**Public Hearing (Published Notice) to Consider Planning Commission Recommendation to Introduce an Ordinance Adopting a Major Planned District Amendment to P-2005-131 (Central Park South) Amending Conditions of Approval Related to Affordable Housing and Homeowner Association Requirements Located at 41075 Railroad Avenue in the Irvington Planning Area**

### **Contact Person:**

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**Executive Summary:** The applicant has requested a Major Planned District Amendment to P-2005-131 (known as Central Park South) to modify conditions of approval related to affordable housing and the homeowners association (HOA) to provide greater flexibility in this challenging economic period. These amendments include establishing a series of milestones demonstrating progress toward multi-family (affordable) building construction to be completed during each year the market rate units are being constructed. The proposed amendment to the HOA requirements would allow the applicant/developer to exclude the multi-family building from the HOA to limit assessments and financial obligations associated with common area maintenance on the future owner of this building. Planning Commission recommended City Council approve the project with a vote of 6-0-0-0-1 at a public hearing on April 14, 2011.

**BACKGROUND:** In December 2008, City Council approved a Mitigated Negative Declaration, General Plan Amendment, Precise Planned District, Vesting Tentative Tract Map, Private Street, General and Summary Street Vacations, and a Development Agreement to allow a 185-unit mixed residential project on a 13± acre site in Irvington. The project site is generally bounded to the north and south by two major roadways, Paseo Padre Parkway and Washington Boulevard, respectively. Directly west of the site is the former Union Pacific Railroad (UPRR) track right-of-way. Directly east of the site are the relocated UPRR tracks and future Bay Area Rapid Transit District (BART) rail corridor that would extend BART services to southern Fremont.

The primary entrance to the project is from Union Street with a secondary access provided near the southern end of the site from High Street (near Main Street). The approval permitted the construction of 145 detached single-family townhomes with a private street system and landscaped pedestrian paseos on the northern 2/3's of the site, a 1.8-acre private common open space area over an earthquake fault restricted area, and a 40-unit rental apartment building at the southern end of the site with 36 units set-aside for low and very low income households. The project would also improve the former UPRR corridor to the west of the site as a public multi-use trail that would connect central Irvington from the Main/High Street intersection at the south to Paseo Padre pedestrian overcrossing bridge and Central Park at the north. The approved precise site plan is attached (see Informational 1).

In mid-2010, Pulte Homes purchased the project from the prior owner. Since that time, Pulte has been working towards final tract map approval, with site work (e.g., grading) initiated in April 2011. Pulte is also in building permit review for the townhome portion of the project, with construction of models anticipated in mid-2011.

The approved affordable housing plan (Condition of Approval A-5) allows Pulte to construct up to 25% (37 units) of the market rate townhomes prior to having the rent-restricted affordable apartments ready for occupancy. However, due to the collapse of the housing market and related impacts on development financing over the past few years, Pulte's efforts to collaborate with a non-profit affordable housing developer have been challenged with uncertainty. These challenges seem to focus on the uncertainty of securing tax credit financing from the State, which is a primary funding mechanism for affordable housing developers. The proposed amendment to Condition A-5 would provide additional flexibility in the construction of the affordable units, including coordination between the future affordable building owner and the homeowners association, while allowing Pulte to progress with construction of the market rate townhomes.

While non-profits have been reluctant to commit to Pulte, Pulte has also been negotiating with a for-profit developer who constructs and manages affordable projects, and has progressed to an agreement with the for-profit developer under its terms. Pulte would sell the multi-family lot to the for-profit housing developer, who in turn, would construct the building and provide the low and very low income rent restricted apartment units. It is staff understanding that the for-profit developer would not apply for or require State tax credit financing in order to fund construction of the building. In order to ensure that the community's interests are protected, Condition of approval A-5 has been modified to also address construction of the 40-unit multi-family building by a for-profit developer.

**PROJECT DESCRIPTION:** The proposed amendment to Planned District P-2005-131 involves two components:

1) *Affordable Housing Plan.* Amendment of the affordable housing plan for the project, established as Condition of Approval A-5, to extend the time horizon allowed for construction of the 40-unit multi-family building (e.g., affordable building). The applicant has proposed a series of milestones to progress toward construction of the affordable building over the three year period they envision the market rate units would be in production. Evaluation of milestone accomplishment would be completed by the Planning Commission with each annual Development Agreement review. If the milestones are achieved as planned, the Planning Commission could release additional market rate units for the following year, until all market rate units have been released. There are two sets of milestones; one if the apartment building is constructed by a non-profit developer, another if it is a for-profit developer. With each milestone review during market rate unit construction, Pulte would: provide utility/infrastructure improvements on the affordable building lot; submit and process building permits for the affordable building; pay \$4 million toward construction of the affordable building (under the non-profit condition); and submit multiple rounds of tax credit applications to the State to secure financing for the future affordable housing builder (also under the non-profit condition). The milestones for the non-profit condition are provided in Attachment 1 to Exhibit "G." The milestones for the for-profit condition are listed in Condition of Approval A-5(b).

As part of this amendment, if construction of the affordable building commences prior to the first milestone review in April 2012, the number of restricted units to low and very low income households would remain at 36 of the 40 units in the building (19% of project units). If this occurs, the applicant/developer may receive an additional release of market rate units as prescribed for the first milestone review in April 2012. Release of the final market rate units, however, would not occur until the 40-unit multi-family building has been certified for occupancy. If construction of the 40-unit multi-family building has not commenced prior to the first milestone review in April 2012, 38 of the 40 units would be restricted to low and very low income households, increasing the project's affordable unit contribution from 19 to 20.5 percent. The restricted units would be dedicated to low and very low income households for a 55 year period (which is reduced from 99 years, as initially required by the approved project, to be consistent with the Affordable Housing ordinance and State tax credit financing requirements).

2) *Homeowners Association and Affordable Building*. Condition of approval B-1 requires that a homeowners association (HOA) be established for the project to maintain and fund improvements to the project's common facilities (e.g., private streets, private open space, fencing, lighting, utilities). Pulte has requested that this condition be amended to allow the affordable building to be excluded from the HOA, if it provides for more functional sharing of the common facilities. Instead, the HOA and affordable building owner would enter into an alternative agreement that would establish which common facilities the affordable building would share maintenance costs for. Both the codes, covenants, and restrictions (CC&R's) and alternative agreement would be recorded on the townhome lots. Only the alternative agreement would be recorded on the affordable building lot. Additionally, easements would be provided to the residents of the affordable building for use the common areas of the project.

## **DISCUSSION/ANALYSIS:**

*Affordable Housing Plan*. At the time the project was entitled, the economic climate for housing construction was still viable and productive, no Redevelopment Agency funding was requested to aid in construction of the affordable building, and the prior owner anticipated the builder of the project would fund and construct the affordable building. Since that time, the national economy has gone into a severe recession and lending to residential developers has been dramatically reduced. Further, no redevelopment funds are available to assist with construction of the affordable building.

Since Pulte purchased the project in spring 2010, the builder has been intently moving forward with its development. Pulte, however, does not build or operate affordable projects. As such, Pulte has been coordinating with a number of affordable housing builders, both non-profit and for-profit, about the project. And, while many developers are interested in the project, all need to secure financing for construction and long term maintenance and operation of the building. Typically, a large amount of non-profit funding comes from securing State tax credits, and with the challenged State budget, it is unclear how much and when State tax credit financing for this project may be secured. While Pulte could technically construct the affordable building, the non-profits Pulte's been engaged with who would operate the affordable building have said in order to secure tax credit financing for the on-going operation of the building, they also need to construct the building.

The proposed amendment would provide Pulte with a level of certainty that they can manage in order to progress with construction of the market rate unit townhomes. Establishing a series of milestones to

demonstrate Pulte's good faith effort toward construction of the affordable building is an acceptable approach to achieve the Affordable Housing ordinance goal of providing housing to households living at or below the moderate income level.

The number of affordable units would not be increased from that originally approved, at 36 of the 40 units (19% of all project units), if construction of the affordable building commenced prior to the first milestone review. However, if, at the time of the first milestone review, affordable building construction has not commenced, the number affordable units would increase from 36 to 38 of the 40 units (20.5% of all project units), thereby providing a greater benefit to the community by assisting a greater number of households.

Condition (A-5) has been structured so that until the for-profit builder is issued building permits, Pulte is required to progress under the non-profit condition requirements (A-5(a)). Under the non-profit scenario, Pulte would be financially contributing toward the construction of the affordable building in two ways: 1) payment of \$4 million to directly help finance the affordable building's construction; and 2) indirectly by completing site improvements around the affordable building (e.g., stubbing of water, sewer, storm drainage lines, power and cable lines to the building's footprint, the private street around the affordable building, and the emergency vehicle access improvements on the City parcel south of the building), as well as processing building permits for the affordable building to be ready for issuance with a combined value of about \$1.22 million. Pulte's total financial contribution to the affordable building site is about \$5.22 million. When compared to the affordable housing in-lieu fee value (if the 145 townhomes paid the fee), the cost would be about \$4.46 million. Thus, the increased affordability and contribution to the affordable building continue to provide a greater benefit to the community than the basic affordability requirement of 15% of all project units, set aside as for-sale units to moderate income households. If a for-profit developer is issued building permits for the affordable building, any monies paid by Pulte toward the \$4 million local tax credit contribution would be refunded to Pulte (since the funds would no longer be required as the local contribution for the tax credit application).

Condition of approval A-5 has been modified to also address both the non-profit and for-profit scenarios. Condition A-5 is structured with three parts; a) applicable to non-profit affordable housing developer; b) applicable to for-profit developer; and c) applicable to both scenarios. Condition A-5(b) addressing the for-profit developer scenario includes milestones similar to that for the non-profit developer, which Pulte must demonstrate completeness of with each annual Development Agreement review, if additional market rate units are to be released. The potential number of units to be released under Condition A-5(b) is identical to that for the non-profit milestones under Condition A-5(a). The primary differences between the non-profit and for-profit conditions are: 1) under Condition A-5(b), the annual or semi-annual application for tax credit financing is not required by the for-profit developer, since no tax credits would be required; 2) under Condition A-5(b), Pulte would fund \$1 million toward construction of the affordable building and the City would refund any funds in excess of \$1 million to Pulte after the building permits have been issued for the multi-family building; and 3) under Condition A-5(b), building permits must be issued and substantial completion of the multi-family building must be completed before the final request for release of market rate units occurs.

*Homeowners Association and Affordable Building.* Pulte has found that developers of rent restricted affordable housing, both non-profit and for-profit, do not want to be included in the HOA in order to limit on-going assessments and financial obligations that would be required by the HOA. The proposed

request would allow Pulte to use an alternative agreement with the owner of the multi-family building that would allow for more functional cost sharing for common areas most used by the multi-family building residents. Similar alternative agreements have been used when multiple HOAs share common facilities, when an HOA shares facilities with a commercial development, or in comparable market rate units and affordable building scenarios. Staff believes providing additional flexibility for management of the common facilities will alleviate concerns of potential developers of the multi-family affordable building about HOA assessments and financial obligations, while ensuring that the its residents have access to the common areas within the project.

**FISCAL IMPACT:** Costs associated with processing the project are funded wholly by the applicant, as are costs associated with development of the project. Because the project includes a Homeowners Association (HOA), costs associated with the on-going maintenance of the project's improvements (e.g., streets, landscaping, common areas, lighting) are all borne by the HOA.

**ENVIRONMENTAL REVIEW:** In 2008, a comprehensive environmental analysis of the project occurred pursuant to the California Environmental Quality Act (CEQA). That analysis identified concerns regarding potential impacts in the topics of air quality, geology/soils, hazards/hazardous material, noise, and traffic/transportation. The adopted Mitigated Negative Declaration includes mitigation measures, which reduce the identified impacts to less-than-significant levels. These mitigation measures have been included as conditions of approval for this project. As such, the Planning Commission recommended and the City Council agreed that adoption of a Mitigated Negative Declaration was appropriate. Implementation of these mitigation measures is in process and will be complete prior to issuance of building permit.

CEQA Guideline 15162 states that no subsequent analysis is required unless the lead agency determines that: 1) substantial changes to the project are proposed; 2) substantial changes in the circumstances of the project have occurred potentially resulting in new or increased severity of previously identified impacts; or 3) new information of substantial importance that was not know and could not have been known when the prior environmental determination was made.

The proposed Major Planned District Amendment does not change the findings of the prior environmental analysis in that it would result in identical use and development of the site. The proposed changes to the affordable housing plan affect timing of development and coordination between the homeowners association and the multi-family building's owner. No substantial changes in the circumstances for impact analysis have occurred nor has any new information that could not have been known when the prior analysis was completed been discovered. The proposed changes are consistent with the adopted Mitigated Negative Declaration and Mitigation Monitoring Plan, and no further analysis is required.

**ENCLOSURES:**

- [Draft Ordinance](#)
- [Exhibit G: Findings and Conditions of Approval](#)
- [Informational 1: Approved Precise Site Plan for P-2005-131, Central Park South](#)
- [Informational 2: Applicant's Justification Statement](#)
- [Informational 3: Planning Commission Minutes, March 10, 2011, and April 14, 2011](#)

**RECOMMENDATION:**

1. Hold public hearing.
2. Find that, consistent with CEQA Guideline 15162, no changes to the project or site circumstances have occurred, nor has new information of substantial importance been discovered, and the previously adopted Mitigated Negative Declaration and Mitigation Monitoring Plan are still valid and no further environmental analysis is required, and find this action reflects the independent judgment of the City of Fremont.
3. Find that proposed changes to the affordable housing plan and homeowners association requirements as shown in underline and strike-out in Exhibit “G,” Planned District P-2005-131, are in compliance with the City’s affordable housing ordinance and fulfill the applicable requirements set forth in the Fremont General Plan and Municipal Code.
4. Waive full reading and introduce an ordinance adopting amendments to the precise plan for P-2005-131, as shown on Exhibit “G,” findings and conditions of approval.
5. Direct staff to prepare and the City Clerk to publish a summary of the ordinance.

## 5.2 CONSIDER INITIATION OF A ZONING TEXT AMENDMENT TO THE AFFORDABLE HOUSING ORDINANCE

### **Consider Whether to Initiate Amending Certain Provisions of the City's Affordable Housing Ordinance (Article 21.7 of Title VIII Chapter 2 of the Fremont Municipal Code) Relating to Timing and Implementation Standards for Affordable Housing Requirements and Alternative Affordable Housing Plans**

#### **Contact Person:**

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**Executive Summary:** The City Council adopted a revised Affordable Housing Ordinance in June 2010. The experience of implementing the revised Ordinance over the past year has raised some questions related to certain of its provisions. Additionally, a local developer has asked the City to consider modifying the Ordinance to change timing requirements for affordable housing plan amendments, and to change standards related to the alternative that allows provision off-site existing units to meet affordability requirements. Pursuant to the City's zoning code, the Council may initiate a zoning text amendment to consider whether changes to an ordinance are warranted. In this instance, if the Council finds that the request warrants study, it may initiate a zoning text amendment and direct staff to prepare a report on the proposed changes for Planning Commission and Council consideration.. Alternatively, the Council may choose to take no action on this request and not direct staff to proceed with study and a report on the proposed changes. Consent to initiate the application does not commit the City Council to subsequent approval of an amendment. Staff supports the request to initiate the zoning text amendment to clarify certain provisions in the Ordinance, and to consider timing and implementation requirements related to alternative affordable housing plans.

**BACKGROUND:** The Affordable Housing Ordinance was revised in June, 2010 to include, among other things, minimum project size of two units, rental impact fees, broader applicability of in-lieu fees for ownership housing, alternative housing plans with expanded options for off-site units, and use of a portion of housing fees for services. Much of the focus of the Ordinance was on how impact fees and in-lieu fees may be generated and spent for the production of affordable housing through City programs.

Under the Ordinance, new residential projects must make at least 15 percent of the living units in any for-sale project available at affordable cost or pay a fee in-lieu of constructing the affordable units on site. Rental projects are required to pay an impact fee ("Affordable Housing Impact Fee"). A developer must elect to construct the units or pay the in-lieu fee prior to issuance of the first building permit for the project. In-lieu fees and affordable housing impact fees are subject to payment deferral consistent with City ordinances that allow the payment of fees at occupancy of a building or 18 months after issuance of a building permit, whichever occurs first.

A developer may also apply for an Affordable Housing Plan that allows one of several alternatives set forth in the Ordinance to comply with the affordable requirements, rather than construction of the units



on-site or payment of the in-lieu fee. Alternative Affordable Housing Plans are a discretionary option in lieu of the basic 15% moderate income requirement and are subject to City approval. They are approved at the time of project entitlement, and may only be modified prior to issuance of the first building permit. The alternative Affordable Housing Plan options include developer performance requirements tied to issuance of building permits and certificate of occupancy for new homes.

**DISCUSSION/ANALYSIS:** The Fremont Municipal Code (FMC) specifies the procedures for amending the zoning code in Section 2-23100. It states that the City Council, Planning Commission, or one or more owners of affected property by the proposed amendment may initiate consideration of an amendment in certain instances. The Zoning Code consists of two distinct components that may be amended.

The first part is the zoning district designation of properties within the City (i.e., “commercial,” “residential,” etc.). When a property owner desires to amend the zoning designation of their property, it is an “affected property” and the property owner submits an application and fees for review through the Planning Division in preparation of consideration by the Planning Commission and City Council as an entitlement.

The second component of the zoning code comprises the generally applicable standards and regulations which apply citywide, such as the affordable housing or density bonus ordinances. When a desired change is to an ordinance that is general in nature and of citywide application, consideration of the change must be initiated by the Council. The cost for considering such a change is borne by the City, and Council must determine the merits of pursuing such a request, considering the public necessity, convenience, and general welfare served by the proposal.

In this instance, Developer Robson Homes has requested changes (Enclosure) to the Affordable Housing Ordinance that would: 1) allow projects approved prior July 15, 2010 (the effective date of the revised Ordinance), which are currently under construction and thus beyond issuance of the first building permit, the opportunity to amend their Affordable Housing Plans; 2) broaden the standards for allowing the off-site purchase of existing market rate units to meet affordability requirements; and 3) modify the timing standards for construction of market rate units in relation to securing off-site affordable housing units. Because the requested changes relate to general city policy, they are subject to Council initiation as a City project.

Staff supports considering amendments to the Ordinance. After working with it for the past 10 months, Staff believes that some adjustments to its implementing details are warranted. Additionally, at the time the revised Ordinance was adopted in 2010, it prioritized payment of in-lieu fees as the simplest alternative to constructing affordable units on site. Since that time, use of the off-site purchase alternative has been viewed favorably with recent projects and further refinement of the timing standards and City expectations for housing types warrants reconsideration.

#### *General Plan Conformance*

If consideration of the proposed amendments is initiated, they will be subject to review in relation to the General Plan Housing Element’s pertinent Goals and Policies. The Affordable Housing Ordinance revisions were a specific action for implementing the Housing Element (Action 3.01-B). (See the City Council report from June 1, 2010 for a full summary.) The Housing Element has goals related to

construction of new housing of all types, development of new affordable housing units, dispersing affordable housing, creating a variety of housing types, focusing development near transit, providing supportive services related to affordable housing, and preserving existing at-risk affordable housing.

**FISCAL IMPACT:** As a City initiated action for the benefit of the City as a whole, the cost of studying amendments to the Affordable Housing Ordinance and proposing a revised ordinance would be borne by the City. The Community Development Department general fund allocation would fund the process. As no specific funding has been allocated for the project, department priorities would shift around to accommodate this project. Staff estimates that the project will require approximately 120 hours of staff time and cost between \$15,000 and \$20,000 (which includes publication/noticing requirements).

**ENVIRONMENTAL REVIEW:** The request for initiation an application for a zoning text amendment is not a project under the California Environmental Quality Act as there is no commitment or approval of an activity related to physical changes in the environment. The initiation request, if granted, would allow for study of specific changes that would subsequently be a project subject to the California Environmental Quality Act.

**ENCLOSURE:** [Robson Homes Letter May 3, 2011](#)

**RECOMMENDATION:** Initiate a zoning text amendment and direct staff to prepare a report to the Planning Commission for consideration of the proposed amendments at a public hearing for a recommendation to the city council related to:

- A. *Amending alternative housing plan timelines for previously approved projects*
- B. *Affordable housing plan implementation timelines*
- C. *Eligible off-site alternative housing plan housing types*
- D. *Modifications to clarify existing language and process*

## **6.1 Report Out from Closed Session of Any Final Action**

## 7.1 FISCAL YEAR 2011/12 PROPOSED OPERATING BUDGET

### Presentation of Proposed FY 2011/12 Operating Budget

#### Contact Person:

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**Executive Summary:** The proposed operating budget for FY 2011/12 has been developed and is presented for Council's review and comment. Public hearings on the proposed budget are scheduled for June 7, 2011 and June 14, 2011, with adoption anticipated at the conclusion of the second public hearing.

**BACKGROUND:** The fiscal year 2011/12 budget process presents a uniquely challenging environment and opportunity for the organization and community. A slow and anemic economic recovery from the Great Recession, coupled with increasing personnel costs, has resulted in a persistent General Fund deficit. The bridging strategies used to balance the budget the last several years, such as strategic reductions in service levels and the cautious use of reserves, have positioned Fremont better than most cities in the Bay Area. However, given the length of the economic recovery and rising employee costs, these actions have not been enough to address the structural imbalance in the General Fund. The City's need for long-term structural budget change requires a fresh look at the City's cost structures, methods of service delivery, portfolio of services offered and ability to generate revenue. This requires thoughtful deliberation and difficult decisions on the future of City services and the manner by which those services are provided. In spite of these significant challenges, staff has prepared a balanced budget for the City Council's consideration.

**DISCUSSION/ANALYSIS:** As the City looks ahead to FY 2011/12, staff is encouraged by indicators that the worst may be over economically. Economists are no longer talking about the possibility of a "double dip" recession – although they generally agree that the recovery will be a long, slow one. Typically, local government revenues lag both economic downturn and economic recovery over the course of the business cycle. This gap between the change in economic conditions and local agency revenue collections can last from 18 months to several years. The Joint Venture Silicon Valley (JVSV) *2011 Index of Silicon Valley* indicates local government recovery from the current recession will likely experience an even greater lag than has been the case over the course of previous recessions. In addition to the high unemployment rate, it will take some time for the housing market to recover. Further, the blow to the financial markets has resulted in lost value in public retirement funds, which now have fewer resources to meet growing obligations. This results in increased employer contributions into the retirement funds to meet those obligations.

Property tax appears to be stable, and sales tax seems to be ticking up a bit, just as staff anticipated when the FY 2010/11 budget was adopted. What was not fully anticipated at that time was the significant CalPERS rate increases looming in FY 2011/12 and beyond. These increases are the result of significant investment portfolio losses at CalPERS, and a change in demographic assumptions to reflect

retirees generally living longer (and, thus, collecting benefits for a longer period). Because CalPERS “smoothes” investment portfolio gains and losses over 15 years, the current high rates will likely reach a peak over the next 3-5 years or so and then level off at that high rate for the foreseeable future. Implementing a second tier retirement benefit for new employees will help mitigate the impacts of these high employer rates over the longer term.

The City met previous difficult times by reducing spending throughout the organization and by focusing on attracting and retaining retail businesses to increase revenue. Staff and Council have been vigilant and disciplined over the past several years, cutting costs and reducing staffing to a point of marginal service delivery. A dollar saved today is one that won’t have to be cut in the future, and the organization has taken that to heart. Even so, some very difficult cuts and service reductions have been necessary to make sure the organization continues to live within its means.

**FISCAL IMPACT:** Total budgeted resources in the coming fiscal year will be adequate to support total budgeted expenditures of \$134.1 million, so the budget is considered to be balanced. The FY 2011/12 budget also maintains the City Council’s long-standing funding priorities by allocating over three-quarters of the budget to direct costs for public safety and maintenance. The share of General Fund resources budgeted for these purposes is actually 90% when overhead costs required to support these functions are allocated. The FY 2011/12 proposed budget is 0.4% less than last year’s adopted budget.

In FY 2010/11, the City is expecting to use \$3.4 million from the Budget Uncertainty Reserve (down from the \$7.8 million anticipated at the time the FY 2010/11 budget was adopted in June 2010). Besides the beginning of recovery in revenues, a key reason for this decreased use of the Budget Uncertainty Reserve is a lower actual debt service requirement for the City’s variable rate debt compared to the amount that was originally budgeted in accordance with the debt covenants. Because this favorable experience has occurred for the past few years as a result of unusually low interest rates, the FY 2011/12 budget now includes a savings assumption with respect to the City’s variable rate debt. In FY 2011/12, the City’s “core” reserves will remain intact, at \$18.3 million. However, \$2.8 million of the Budget Uncertainty Reserve is recommended for use to balance the budget, leaving a remaining balance in that reserve of \$4.6 million.

**ENVIRONMENTAL REVIEW:** None required.

**ENCLOSURE:** [FY 2011/12 Proposed Operating Budget](#)

**RECOMMENDATION:** Provide comments to staff.

## 7.2 CONSIDERATION OF A NOTICE OF FUNDING AVAILABILITY FOR LOW AND MODERATE INCOME HOUSING FUNDS

### Consideration to Issue a Notice of Funding Availability (NOFA) for Use of Low and Moderate Income Housing Funds for Development of New Affordable Rental Housing

#### Contact Person:

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#### A companion report is on tonight's Redevelopment Agency agenda

**Executive Summary:** In response to recent Redevelopment Agency Board and City Council direction, staff proposes to issue a Notice of Funding Availability (NOFA) for approximately \$7.9 million of Redevelopment Agency Low and Moderate Income Housing Funds (Affordable Housing Funds) to assist developers in the creation of new affordable rental housing. Due to the uncertainty caused by the State's threatened dissolution of redevelopment agencies, staff recommends both the Agency Board and City Council approve action items related to the issuance of the NOFA. Therefore, the Redevelopment Agency of the City of Fremont and the City of Fremont (Fremont Bodies) would give final approval for any project and funding commitment. Staff recommends that the Fremont Bodies authorize staff to issue a NOFA to solicit affordable housing proposals and to use existing Housing Funds to assist in the financing of projects approved by the Fremont Bodies.

**BACKGROUND:** At the July 20, 2010 Work Session, the Agency Board received considerable background data on the need for affordable housing in Fremont, reviewed the Agency's affordable housing programs and production, and provided guidance to staff on a number of policy questions. Staff took this information and returned to the Agency Board on November 23, 2010 with a draft Agency Affordable Housing Strategy, which reflects the Board's goals and priorities and was approved by the Board. During the discussion, the idea of issuing a Housing Request for Proposals (RFP)/Notice of Funding Availability was discussed as a way to address specific Agency interests in developing affordable housing on various sites within the City.

Over the past few months, staff has presented the City Council and the Agency Board with information about possible courses of action to preserve existing affordable housing assets and future affordable housing funds in light of the Governor's budget proposal and desire to dissolve redevelopment agencies. To this end, on February 15, 2011, the City Council and Agency Board approved an Affordable Housing Cooperation Agreement for the Fremont Merged Redevelopment Project Area between the City and the Agency. The Agreement called for the Agency to deposit the existing balance in its Low and Moderate Income Housing Fund (Affordable Housing Fund) into a City-administered Housing Fund and to deposit into this City-administered Housing Fund future required contributions to the Affordable Housing Fund. In this way, the Agency has requested that the City serve as its agent in administering and expending funds in the Agency's Affordable Housing Fund.

Subsequently, to further protect the existing balance in the Agency's Affordable Housing Fund, on February 22, 2011, the City Council and Agency Board considered other means of obligating the Affordable Housing Funds. After considering the possible Agency purchase of several City-owned properties, the City Council and Redevelopment Agency Board requested that staff issue a Request for Proposal (RFP)/Notice of Funding Availability (NOFA) to solicit proposals from developers interested in applying for funding to build affordable housing in Fremont.

**DISCUSSION/ANALYSIS:** Staff proposes to issue a Notice of Funding Availability (NOFA) for the remaining unallocated balance of approximately \$7.9 million of Housing Funds for the development of new affordable rental housing in Fremont. The Fremont Bodies would give final approval for any project and funding commitment. The draft NOFA is included as an enclosure to this agenda report.

Some of the key goals in Fremont's Affordable Housing Investment Strategy, approved by the Agency Board in November, call for the City/Agency to (1) focus the production of rental units on extremely-low, very low and low income categories; (2) target a range of households, including transition age youth, families and seniors; and (3) encourage projects that include supportive services as an integral component of affordable housing. To help meet these goals, the NOFA includes an evaluation standard that favors projects that include the following housing priorities:

- Targeting extremely low income households (30% or less than area median income), very low income households (50% or less than area median income) and low income households (60% or less than area median income). Targeting a range of households, including transition age youth, large families and seniors.
- Including supportive services appropriate for the expected tenant population as an integral component of the project, noting that Housing Funds cannot be used to pay for related operational costs.

**Selection Process:** Proposals that meet the NOFA requirements will be reviewed initially by City staff and consultants. Proposals will be evaluated based on the project selection criteria listed in the NOFA. A screening team, proposed to be made up of staff, consultants, and if desired by the Fremont Bodies, two community representatives, would interview and check references for the top performing applicants and make recommendations to the Fremont Bodies for final approval, selection and funding. Once the Fremont Bodies have made a final decision, staff will begin negotiation with selected developers of loan and regulatory agreements for the 55-year term of affordability. Staff believes that the \$7.9 million of funds to be offered through the NOFA will likely fund only one or two projects.

**Schedule:** The proposed NOFA schedule is expected to take approximately 8 months. Applicants will have three months to respond to the NOFA. Once proposals are received, staff will have 2 months to review proposals, qualify and screen applicants, check references and make a recommendation to the Fremont Bodies for consideration. Immediately following approval by the Fremont Bodies, the City/Agency and the selected applicant(s) will begin negotiating loan and regulatory agreements. The schedule below lists specific dates and events expected to occur during the NOFA process:

<b>NOFA SCHEDULE</b>	
<b>EVENT</b>	<b>DATE</b>
City Council and Agency Board meetings to approve release of NOFA	Tuesday, 5/24/2011
NOFA announced	Tuesday, 5/31/2011
Pre-Proposal information meeting	Thursday, 6/16/2011
Proposals due <b>(90 days from NOFA announcement)</b>	Monday, 8/30/2011
Initial review of proposals	Tuesday, 9/07/2011
Proposal review team report on reference check and other due diligence	Wednesday, 9/15/2011
Applicant interviews <b>(Specific date TBD)</b>	Mid-September 2011
City Council and Agency Board meetings to approve Proposal(s) <b>(60 days from Proposal due date)</b>	Tuesday, 10/25/2011
Loan, Regulatory Agreements Negotiation <b>(45 days)</b>	Mid-December 2011
City Council and Agency Board approve Loan and Regulatory Agreements	Early January 2012

**Housing Funds:** Approximately \$7.9 million of Housing Funds (as defined in the Executive Summary) are available for this NOFA. These funds can be used to support predevelopment, acquisition and construction costs. It is recommended that the Fremont Bodies will not provide financing to support operating subsidies or supportive services. The Housing Funds are intended to fill the financing gap between total development cost and other available financing sources (e.g., tax credits, private financing, and other grants and loans) the developer must separately obtain. The allocation of Housing Funds to a project will be subject to the negotiation of a loan agreement between the City and the developer that must be approved by the Fremont Bodies.

**Issues for Consideration:** Staff has identified the following issues for Council/Agency consideration:

- Rental vs. For Sale. If approved, the NOFA would solicit new affordable rental developments. For-sale projects would not be eligible for the NOFA. Rental projects are being solicited because rental units can best target affordability levels at the extremely low, very low and low income



categories, which are the households in greatest need. Also, the Agency's Affordable Housing Investment Strategy calls for Fremont to use the Regional Housing Needs Allocation (RHNA) as a benchmark for targeting the expenditure of Affordable Housing Funds through 2014. Rental housing as opposed to for-sale housing offers the best chance at reaching the lower income categories and at helping more households on a subsidy per housing unit basis. While circumstances exist in which the City has assisted in funding low or very low income home ownership housing projects, to date, these have been rare occurrences. Staff views these as pilot projects and would like more time in which to evaluate their success before they continue to be offered.

- In/outside Project Area. The future of Redevelopment is uncertain, so it very well could be that in the future there is no distinction made between affordable housing developments inside the Agency's Project Area and those outside the Project Area. The proposed NOFA does not limit project sites to any particular area. Staff hopes that allowing developers to propose sites throughout Fremont will help to disburse affordable housing throughout the City.
- Range of incomes. Rental projects that are all either affordable or mixed income (both affordable and market-rate rental units) would be eligible under the NOFA guidelines. All projects must be financially feasible. For mixed-income projects, only the affordable housing portion of the development can be assisted with the funds being offered through this NOFA. Housing Funds cannot be used to support market-rate housing.

The City's General Plan encourages a mix of housing near transit. Examples in Fremont include development near the existing BART station, the planned Irvington BART station, the Centerville Train Depot and on main bus routes such as Fremont Boulevard. In its Housing Element, the City has identified numerous parcels suitable for residential development near transit hubs. The NOFA does not limit housing sites to these areas, but informs developers that these sites are identified in the current Housing Element and would be encouraged for affordable housing.

- Green buildings. The City adopted a residential Green Building Ordinance in 2010, which establishes a baseline for green features in new residential construction. In keeping with the Fremont Bodies' emphasis on sustainability and on reducing greenhouse gas emissions, the NOFA will encourage developers to go beyond the requirements of the ordinance and to include additional cost-effective green building features in their proposals.

Staff recommends that the Fremont Bodies authorize staff to issue a NOFA to solicit affordable housing proposals and to use Housing Funds (as defined in the Executive Summary) to assist in the financing of projects approved by the Fremont Bodies.

**FISCAL IMPACT:** None at this time. Fiscal impact will be assessed as future projects are funded.

**ENVIRONMENTAL REVIEW:** The proposed action does not meet the definition of "project" as defined by CEQA. No environmental review is necessary at this time; however, environmental review required by CEQA or NEPA (if applicable) will be complete prior to the commencement of any individual affordable housing project that results from this NOFA.

**ENCLOSURES:**

- [Draft Resolution](#)
- [Draft Notice of Funding Availability \(NOFA\)](#)

**RECOMMENDATION:** Adopt a resolution authorizing the issuance of a Notice of Funding Availability (NOFA) to solicit proposals for the development of affordable housing and authorizing the use of Housing Fund monies (as defined in the Executive Summary) to assist in the financing of such development.

## 8.1 Council Referrals

### 8.1.1 MAYOR WASSERMAN REFERRAL: Appointment of Saumya Singhal to the Library Advisory Commission

**Appointment:**

*Advisory Body*

Library Advisory Commission

*Appointee*

Saumya Singhal

*Term Expires*

December 31, 2013

**ENCLOSURES:** [Commission Application](#)

## 8.2 Oral Reports on Meetings and Events



## ACRONYMS

ABAG.....	Association of Bay Area Governments	FUSD .....	Fremont Unified School District
ACCMA.....	Alameda County Congestion Management Agency	GIS .....	Geographic Information System
ACE .....	Altamont Commuter Express	GPA.....	General Plan Amendment
ACFCD .....	Alameda County Flood Control District	HARB .....	Historical Architectural Review Board
ACTA .....	Alameda County Transportation Authority	HBA .....	Home Builders Association
ACTIA .....	Alameda County Transportation Improvement Authority	HRC .....	Human Relations Commission
ACWD .....	Alameda County Water District	ICMA .....	International City/County Management Association
BAAQMD .....	Bay Area Air Quality Management District	JPA .....	Joint Powers Authority
BART .....	Bay Area Rapid Transit District	LLMD .....	Lighting and Landscaping Maintenance District
BCDC .....	Bay Conservation & Development Commission	LOCC .....	League of California Cities
BMPs .....	Best Management Practices	LOS .....	Level of Service
BMR .....	Below Market Rate	MOU .....	Memorandum of Understanding
CALPERS.....	California Public Employees' Retirement System	MTC.....	Metropolitan Transportation Commission
CBD .....	Central Business District	NEPA .....	National Environmental Policy Act
CDD.....	Community Development Department	NLC.....	National League of Cities
CC & R's .....	Covenants, Conditions & Restrictions	NPDES.....	National Pollutant Discharge Elimination System
CDBG .....	Community Development Block Grant	NPO.....	Neighborhood Preservation Ordinance
CEQA .....	California Environmental Quality Act	PC.....	Planning Commission
CERT .....	Community Emergency Response Team	PD .....	Planned District
CIP .....	Capital Improvement Program	PUC.....	Public Utilities Commission
CMA .....	Congestion Management Agency	PVAW .....	Private Vehicle Accessway
CNG.....	Compressed Natural Gas	PWC.....	Public Works Contract
COF .....	City of Fremont	RDA .....	Redevelopment Agency
COPPS .....	Community Oriented Policing and Public Safety	RFP .....	Request for Proposals
CSAC.....	California State Association of Counties	RFQ.....	Request for Qualifications
CTC .....	California Transportation Commission	RHNA .....	Regional Housing Needs Allocation
dB .....	Decibel	ROP.....	Regional Occupational Program
DEIR.....	Draft Environmental Impact Report	RRIDRO.....	Residential Rent Increase Dispute Resolution Ordinance
DO .....	Development Organization	RWQCB .....	Regional Water Quality Control Board
DU/AC.....	Dwelling Units per Acre	SACNET .....	Southern Alameda County Narcotics Enforcement Task Force
EBRPD .....	East Bay Regional Park District	SPAA .....	Site Plan and Architectural Approval
EDAC .....	Economic Development Advisory Commission (City)	STIP .....	State Transportation Improvement Program
EIR.....	Environmental Impact Report (CEQA)	TCRDF.....	Tri-Cities Recycling and Disposal Facility
EIS .....	Environmental Impact Statement (NEPA)	T&O .....	Transportation and Operations Department
ERAF .....	Education Revenue Augmentation Fund	TOD .....	Transit Oriented Development
EVAW .....	Emergency Vehicle Accessway	TS/MRF .....	Transfer Station/Materials Recovery Facility
FAR .....	Floor Area Ratio	UBC .....	Uniform Building Code
FEMA.....	Federal Emergency Management Agency	USD.....	Union Sanitary District
FFD.....	Fremont Fire Department	VTa .....	Santa Clara Valley Transportation Authority
FMC.....	Fremont Municipal Code	WMA .....	Waste Management Authority
FPD.....	Fremont Police Department	ZTA.....	Zoning Text Amendment
FRC.....	Family Resource Center		

**UPCOMING MEETING AND CHANNEL 27  
BROADCAST SCHEDULE**

<b><i>Date</i></b>	<b><i>Time</i></b>	<b><i>Meeting Type</i></b>	<b><i>Location</i></b>	<b><i>Cable Channel 27</i></b>
May 31, 2011 (5 <sup>th</sup> Tuesday)		No Council Meeting		
June 7, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 14, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 21, 2011	TBD	Work Session	Council Chambers	Live
June 28, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 5, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 12, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 19, 2011	TBD	Work Session	Council Chambers	Live
July 26, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
		August Recess		
September 6, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 13, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 20, 2011	TBD	Work Session	Council Chambers	Live
September 27, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 3, 2011	4-6 p.m.	Joint Council/FUSD Meeting	Council Chambers	Live
October 4, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 11, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 18, 2011	TBD	Work Session	Council Chambers	Live
October 25, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live